

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE

DEPARTMENT/AGENCY DFA
DIVISION Revenue/Office of Child Support Enforcement
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INSTRUCTIONS

- A. Please make copies of this form for future use.
B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Donna K. Davis
Subcommittee on Administrative Rules and Regulations
Arkansas Legislative Council
Bureau of Legislative Research
Room 315, State Capitol
Little Rock, AR 72201

1. What is the short title of this rule?
OCSE Policy Manual
2. What is the subject of the proposed rule?
Child Support/Medical Support
3. Is this rule required to comply with federal statute or regulations? Yes _____ No X _____
If yes, please provide the federal regulation and/or statute citation.
4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?
Yes _____ No X _____
If yes, what is the effective date of the emergency rule? _____
When does the emergency rule expire? _____
Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes _____ No _____

5. Is this a new rule? Yes _____ No X If yes, please provide a brief summary explaining the regulation.

Does this repeal an existing rule? Yes _____ No X If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes X No _____ If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."

6. Cite the state law that grants the authority for this proposed rule? If codified, please give Arkansas Code citation.

Act 1248 of 2001, Act 337 of 2003, Act 1020 of 2003

7. What is the purpose of this proposed rule? Why is it necessary?

Recent changes in federal law with the Amendments to 45 CFR Part 300 and new state legislation aimed at meeting federal requirements require comprehensive changes to the current OCSE Policy manual. The attached regulation will replace the existing policy manual and provide agency staff and the public with information concerning the rules and regulations governing the administration of the child support program.

8. Will a public hearing be held on this proposed rule? Yes X No _____
If yes, please complete the following:

Date: 7-15-04

Time: 10:00 AM to 11:30 AM

Place: 400 E Capitol, Little Rock, 4th floor Board Room

9. When does the public comment period expire for permanent promulgation? (Must provide a date.)

July 30, 2004

10. What is the proposed effective date of this proposed rule? (Must provide a date.)

September 1, 2004

11. Do you expect this rule to be controversial? Yes _____ No X If yes, please explain.

12. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

Unknown

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT DFA
DIVISION Revenue/Office of Child Support Enforcement
PERSON COMPLETING THIS
STATEMENT Mary E. Smith
TELEPHONE NO. 682-6828 FAX NO. 682-6002 EMAIL: mary.e.smith.ocse.state.ar.us

To comply with Act 1104 of 1995, please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE

OCSE Policy Manual

1. Does this proposed, amended, or repealed rule or regulation have a financial impact?
Yes X No _____
2. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.
3. If the purpose of this rule is to implement a federal rule or regulation, please give the incremental cost for implementing the regulation. Please indicate if the cost provided is the cost of the program.

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

4. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule? Identify the party subject to the proposed rule, and explain how they are affected.

Current Fiscal Year

\$ _____

See attached

Next Fiscal Year

\$ _____

5. What is the total estimated cost by fiscal year to the agency to implement this rule?

Current Fiscal Year

\$ _____
See attached

Next Fiscal Year

\$ _____

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Chapter 1 INTRODUCTION

BACKGROUND INFORMATION

On January 4, 1975, Congress enacted Public Law 93-647. The law amended Title IV of the Social Security Act by creating a new Part D, “Child Support and Establishment of Paternity.” Part D imposes obligations on the states in order for their federal grants under Title IV to continue at an unreduced level, and establishes conditions of eligibility for Transitional Employment Assistance (TEA) recipients. Title IV-D, as amended, authorizes the enforcement of child support obligations owed by noncustodial parties to their children, locating parents, establishing paternity, and obtaining child support. These objectives are based on the belief that all children are entitled to have their parents identified and to receive support from both parents.

AUDIENCE

The Office of Child Support Enforcement Policy Manual is the official statement of policy used by ~~state staff and contract staff acting as agents of the Office of Child Support Enforcement (OCSE)~~ in implementing the Child Support Enforcement Program in Arkansas.

PURPOSE

The purpose of the Child Support Enforcement Policy Manual is to set forth policy necessary to the implementation of the Child Support Enforcement program.

PREPARATION OF THE MANUAL

Policy for the Child Support Enforcement Policy Manual will be developed and approved according to agency policy with the Department of Finance and Administration.

NOTE: The codification of general and permanent rules, as published in the Code of Federal Regulations by the executive departments and agencies of the Federal Government, supersedes policy and procedures set forth in the Arkansas Office of Child Support Enforcement’s Policy Manual.

ISSUANCE OF THE MANUAL

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Materials issued for inclusion in the Office of Child Support Enforcement Policy Manual will be accompanied by a cover memo explaining the filing of material. Issuances will be coded 'OCSE' and numerically ordered by calendar year and issue number. At the bottom of the cover memo there will be an inquiry line. ~~The inquiry line on the cover memo~~ which will give the name of the person who is responsible for answering questions regarding the issuance.

Cover memos will be filed at the front of the manual in numerical order with the most recent memo filed at the front. At least once a year, or as appropriate, a checklist will be issued containing a complete list of material that should be included in the manual ~~in~~ and the order in which it should be filed. This checklist will enable each person maintaining an Office of Child Support Enforcement Policy Manual to check the manual to insure that all materials is are filed in the proper order. After a manual has been checked against the checklist, cover memos for all issuances prior to the checklist may be removed from the manual.

Cover memos for manuals maintained in the Library of Master Manuals shall be retained for a period of one year from the date of the memo for reference. Policy materials will be organized in chapters with titles that correspond to program functions and subtitles that correspond to the activities necessary to complete the functions. Form material will be filed in numerical order by form ~~and pub~~ number in the Forms Appendix at the back of the manual.

The manual will have a table of contents to be filed at the front of the manual to assist in locating policy by topic. The table of contents will be updated at least once a year or as appropriate.

REVISIONS TO THE MANUAL

As material becomes obsolete, ~~it~~ the policy manual will be assigned for revision. Revisions will be handled in the same manner described under "Issuance of the Manual." The cover memo accompanying revised material will list pages to be deleted ~~and~~ or substituted.

STRUCTURE OF THE PROGRAM

~~The State Child Support Enforcement Program is composed of the Office of Child Support Enforcement and the other units or agencies providing services under contracts. The Office of Child Support Enforcement~~ Office of Child Support Enforcement (OCSE) is state-administered and state-operated within the Division of Revenue, Department of Finance and Administration (DFA). Other sections of ~~the DFA that provide support services for the Office of Child Support Enforcement~~ OCSE include Administrative Services, Information Services, Personnel Management, Driver Control Services, Motor Vehicle Administration, Revenue Legal Counsel, State Income Tax Unit Administration, State Purchasing Procurement, and Quick Copy.

~~The Office of Child Support Enforcement~~ OCSE is the single and separate organizational unit responsible for administering the IV-D Program under the State Plan. ~~The unit is supervised by the Administrator of OCSE. and is located within the Division of Revenue, Department of~~

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~~Finance and Administration.~~ The Unit, supervised by the Administrator of OCSE, consists of ~~central office administrative program support staff, and field staff, and Clearinghouse staff.~~

OCSE CENTRAL OFFICE ~~(OCSE)~~

The Central Office for ~~Child Support Enforcement~~ OCSE includes the Administrator and Management Staff who are charged with responsibility for specified areas. Operational functions include development and maintenance of computer systems, program/policy development, collections, training, parent locate services, finance, central registry, personnel, purchasing, quality control, administrative support, customer service, appeals and hearings, and ~~legal matters~~ general counsel. The function of Central Office Staff is to provide the necessary support services for field staff and to administer the program at the state level.

FIELD STAFF

Under ~~the~~ direction of the Operations Manager, Field Managers are responsible for supervising the Regional Office Managers and Extension Office Supervisors. Regional Office Managers and Extension Office Supervisors are responsible, under the direction of the Field Managers, for supervising the Field Staff. The Field Staff are responsible for locating noncustodial parties and obtaining the information necessary to initiate administrative procedures to enforce orders or support legal action pursuant and limited to the purpose of the IV-D Program. The Field Staff work closely with the legal staff to insure appropriate information is available to support the necessary legal action to collect child support or establish paternity.

LEGAL SECTION

~~Attorneys employed by or under contract with the Department of Finance and Administration or the Office of Child Support Enforcement represent the State of Arkansas, which is the real party in interest, for establishing paternity and securing repayment of benefits paid and assigned past due support, future support and costs in actions brought to establish, modify or enforce an order of support in Title IV-D cases. Representation by the employed attorney shall not be construed as creating an attorney-client relationship between the attorney and the assignor of such interest.~~

Attorneys under the administrative supervision of ~~the Office of Child Support Enforcement~~ the Field Operations Manager are responsible for legal activities within their assigned area. Attorney Specialists are responsible for providing oversight and supervision to attorneys in their legal function. Attorneys will receive investigative reports and case files from the ~~Investigator caseworker~~, assess the information available, determine an appropriate course of action for each case, prepare cases for court, and proceed with all necessary establishment or enforcement processes. Attorneys must maintain the ~~IV-D~~ OCSE case files with relevant legal records until the case is closed or legal action is completed and the case is returned to the ~~Investigator caseworker~~ for payment monitoring. The attorney will rely on the ~~Investigator caseworker~~ to

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obtain and provide locate information or documents as may be necessary to support court actions.

~~The legal section consists of a General Counsel and a Legal Support Unit. The Legal Support Unit is under the supervision of the Counsel for Field Operations, who directs legal support through attorney specialists. Attorney specialists are responsible for providing technical advice and assistance to legal staff.~~

OCSE attorneys represent the State of Arkansas, which is the real party of interest in ~~Title IV-D~~ OCSE cases.

~~CHILD SUPPORT ENFORCEMENT UNIT CONTRACTS~~

~~Contracts may be signed between the Arkansas Department of Finance and Administration and anyone interested in performing the services necessary to implement the IV-D program. These contracts will generally require the contractor to supply the necessary staff, equipment and facilities to perform child support enforcement activities at the level of service provided for in the contract and as required by State IV-D personnel under the State plan.~~

~~FINANCIAL SECTION~~

~~The Financial Section is responsible for establishing and maintaining an accounting system with supporting records adequate to sustain collection and distribution of support payments according to federal requirements. They also have responsibility for receiving and disbursing payments, operating centralized payment processing, completing quarterly financial reports, program budgeting, accounts payable/receivable, banking, overpayments, hot checks, federal funding and accounting.~~

THE ARKANSAS CHILD SUPPORT CLEARINGHOUSE

Pursuant to Public Law 104-193 and Ark. Code Ann. § 9-14-801 et. seq., OCSE operates a centralized state disbursement unit for processing all child support payments for Title IV-D and payments through income withholding in non-Title IV-D cases. The unit operates under the supervision of the State Disbursement Unit Manager.

Chapter 2 ADMINISTRATION

PROGRAM GOAL

The purpose of the Child Support Enforcement Program is as follows:

- Locate the noncustodial parent (~~NCP~~).
- Establish paternity of children born out-of-wedlock.
- Establish a the legal obligation for of the NCP noncustodial parent for child/medical support.
- Enforce child/medical support obligations.
- Collect, distribute and disburse child support payments.

Child/medical support services are available to any individual without regard to the person's state of residence. Recipients of Transitional Employment Assistance (TEA), IV-E Foster Care, and certain mandatory Medicaid categories ~~and Medicaid~~ are automatically referred to OCSE for services from the Department of Human Services. Individuals who do not receive TEA, ~~Medicaid~~ or IV-E Foster Care may apply on behalf of a child directly to OCSE for services.

ADMINISTRATION FUNDING

The Child Support Enforcement Program is supported by State General Revenue, fees collected from custodial and noncustodial parents, state collection efforts, and federal funds. ~~and is administered by the Office of Child Support Enforcement, Division of Revenue, Department of Finance and Administration (DFA) of Arkansas. In those counties where appropriate, contracts with political subdivisions and private contractors provide for the necessary investigative, legal and clerical personnel to pursue court actions and enforce child/medical support orders.~~

PERSONNEL

All personnel employed by ~~the State in the Office of Child Support Enforcement~~ OCSE must meet the minimum qualifications for the position they occupy. Personnel services for ~~the Office of Child Support Enforcement~~ OCSE are provided by the Office of ~~Personnel Management Administrative Services, Division of Management Services,~~ DFA. The affirmative action plan approved for the Department of Finance and Administration is applicable to ~~the Office of Child Support Enforcement~~ OCSE.

CONFIDENTIALITY

OCSE will not release information regarding members in an ~~IV-D~~ OCSE case except ~~in certain circumstances~~ as permitted by law. (Ark. Code Ann. § 9-14-210)

~~A r~~Release of information on the whereabouts of a party is permissible only if ~~the release of information~~ it is in connection with the administration of the Title IV-D Child Support Program, other limited purposes, or as specifically authorized by law (exception: Ark. Code Ann. § 9-14-210 (h)). A violation of confidentiality shall constitute a Class B Misdemeanor.

~~It shall be~~ is unlawful to disclose to any committee or legislative body any information that identifies by name or address ~~of any applicant or recipient of Social Security Act Title IV-D~~ OCSE child support enforcement services, except under limited circumstances. (Ark. Code Ann. § 9-14-210 (j))

~~If In a case where the State has reason to believe that release of the information to that a person would result in harm to the party or the child, OCSE is prohibited from releasing any information on the whereabouts of one party or the child to another party or any other person against whom a protective order with respect to the former party or child has been entered, or to another person. A family violence indicator will be placed on the file of the victim and all members of the victim's household listed on the case.~~
(ACA 9-14-210 (g)(i))

Release Of Information

A custodial parent, physical custodian, or noncustodial parent is entitled to his or her own personal information contained in a case file. Court orders and pay records may be released to either requesting party.

When releasing court orders, the non-requesting party's social security number will be blocked out, even though the information is a matter of public record. Should a protective order be obtained after the date on which a court order was entered, then OCSE will, additionally, block out any address information, even though the information may still be available on public record.

All requests for copies of information must be made in writing. Information may not be released over the phone. If a copy of an entire file is requested, then all information, including pay records and notes, will be released. However, the non-requesting party's address, work information, and social security number will be blocked out with a black marker and copied again to avoid seeing the information when held up to the light. A verbal request will not constitute a request for information. A request may be sent by mail or be made in person. If the request is made in person, a form supplied by the local office must be signed.

Release forms and request letters will be maintained in the party's file for documentation. Requested information will be mailed within five business days from date of receipt of the written request. No fee for copies will be charged.

OCSE may release information on the whereabouts of a party if the party requesting the information is the ~~NCP~~ noncustodial parent or the physical custodian. The ~~NCP~~ noncustodial parent or physical custodian must submit the request by an affidavit that clearly states the reason the information is requested, and ~~must set out~~ describes the unsuccessful attempts to acquire the information from other sources. The affidavit requesting release of information ~~must~~ may be sent by first class mail to OCSE. **(Ark. Code Ann. § 9-14-210(h))**

Within seven days of receiving the request, OCSE ~~shall~~ will notify the party whose whereabouts are subject to disclosure that a request for location information has been made and that information will be provided within 20 days of the date of the notice unless OCSE receives a copy of a court order prohibiting the disclosure or otherwise restricting the requesting party's rights to the information, or a request for an administrative hearing to contest the disclosure. **(Ark. Code Ann. § 9-14-210(h)(3))**

~~Whenever~~ an administrative hearing to contest the release of information is requested, OCSE ~~shall~~ will not disclose the whereabouts of a party until the administrative hearing is held or completed. If any reasonable evidence of domestic violence or child abuse is presented at the administrative hearing or by affidavit, ~~or~~ and the disclosure of the last known address or any identifying information could be harmful to a party or the child, OCSE shall not release the information. ~~OCSE shall rely on the standard for "Good Cause" to determine if information should be released.~~ **(OCSE Policy, Chapter 3)**

Safeguarding Information

Case records will be stored in file cabinets accessible only to authorized OCSE personnel. These file cabinets will be maintained in a secure, locked area when not in use.

Private Collection Agencies

OCSE will not accept change requests forms or requests for information from a private collection agency, nor will a "power of attorney" provided by a private collection agency be accepted. Custodial parents may seek optional remedies for the collection of obligated past due support. A custodial parent may keep his/her OCSE child support case open while under contract with a private collection agency.

The non-TEA custodial parent may request a change of address in writing and have child support payments sent to his/her address of choice including that of a private collection agency. However, it should be explained to the custodial parent that all money and documents for all cases will be sent to the address provided.

FEDERAL RESOURCES AVAILABLE

The following federal resources are made available by Title IV-D of the Social Security Act:

- **United States District Courts:** The United States District Courts may be used to enforce the court order of an Arkansas court of competent jurisdiction against a NCP noncustodial parent in another state. An application for using the U.S. District Court must be submitted to the OCSE Regional Office by the Arkansas OCSE Central Office. **(45 C.F.R. § 303.73)**
- **Federal Criminal Nonsupport:** Cases meeting the criteria for prosecution under the Child Support Recovery Act (CSRA) will be forwarded to the appropriate U.S. Attorney's office by ~~the OCSE General Counsel~~. To be eligible for prosecution under CSRA, the NCP noncustodial parent must live in a different state than the child; and be \$5,000 behind or have made no payment for one year, have the ability to pay, and nonpayment must be willful. It is within the U. S. Attorney's discretion to accept or reject a case referred by OCSE for federal criminal nonsupport. **(Public Law 102-521; Public Law 105-187; OCSE Policy, Chapter 5)**
- **Federal Tax Administrative Offset Program:** Federal law authorizes Tax Refund Intercept, administrative offset of recurring and nonrecurring payments, and passport denial for delinquent court-ordered support obligations owed to families receiving child/medical support services. Collections made by intercepting federal income tax refunds due the NCP noncustodial parent are to be applied only against past due child/~~medical~~ support. The process includes collection of delinquent support obligations owed to (1) reimburse the state for amounts paid to families receiving TEA, Medicaid and (2) pay arrears to non-TEA families who receive ~~IV-D~~ full OCSE services. (For additional information, see Chapter 8.) **(45 C.F.R. § 303.72; Public Law 98-378; OBRA 1981)**
- **IRS Full Collection Service:** Past due child/medical support for TEA, Medicaid and non-TEA ~~IV-D~~ full OCSE services cases can be referred to the IRS to be collected as if unpaid child support were a delinquent tax debt. To be eligible for the IRS full collection service, a court order must exist and arrears must be at least \$750. Request for use of full collection services must be approved by the Administrator of Arkansas OCSE and reviewed by the Regional Office of Child Support Enforcement. Referrals to the IRS Full Collection Service are made by the state to which an assignment of support rights or a non-TEA application for child support services has been made. The applicant for services must pay a fee of \$122.50 at the time of the referral. **(45 C.F.R. § 303.71)**
- **Garnishment Of Salaries Of Federal Employees:** Federal income, including military pay, certain types of Social Security payments (e.g., SSA), income tax refunds, and disability benefits are subject to garnishment. The Office of Child Support

Enforcement can obtain an order of garnishment against the NCP's noncustodial parent's salary or income when other methods of collection have failed. **(Public Law 104-193)**

PUBLICIZING SUPPORT ENFORCEMENT SERVICES

The availability of child/medical support enforcement services is publicized on a regular basis. The ~~public service~~ announcements include the fact that application fees are charged for non-TEA ~~IV-D~~ OCSE services and a list of telephone numbers or addresses where additional information may be obtained. **(45 C.F.R. § 302.30)**

ASSIGNED COUNTY

The county responsible for working ~~the a~~ case is the "assigned county." The following factors determine the county where the case should be assigned, listed in the order of priority:

1. Location of the Arkansas court that issued the order for child/medical support
2. Location of the custodian
3. Location of the NCP noncustodial parent.

Transferring Cases

Prior to the establishment of a court order, if ~~the facts of the case~~ indicate a case has been assigned to the wrong county, the investigator shall take immediate action to transfer the case to the correct county.

Transferring Cases From One ~~Jurisdiction~~ Judicial District To Another ~~Jurisdiction~~ Judicial District

~~The local child support units initiate actions to transfer a case from one jurisdiction to another without approval from the OCSE Operations Manager or designee. The OCSE Field Operations Manager or designee must approve all actions by OCSE to request transfer of a case from the jurisdiction of one court to another.~~

The court that originally issued the order will retain jurisdiction for six months from the effective date of the order. ~~If both parties establish a residence in another jurisdiction, one of the parties may petition the court to transfer the case to that jurisdiction based on a showing that the transfer would be in the best interest of the parties. Action to transfer the case must be brought by the party requesting the transfer. All costs associated with the transfer action will be paid by the party requesting the transfer. If one party has moved from the county that issued the order and the other party has moved out of Arkansas, the court on its own motion or either party may petition the court that granted the final decree to transfer the case to the county where at least one party resides. The court that issued the final decree of divorce or judgment of paternity will make the final decision regarding the transfer.~~

(~~ACA 9-14-208~~; Ark. Code Ann. §§ 9-10-102(f), 9-12-320, 9-14-108)

PROGRAM REVIEW

~~Staff is assigned at the state level to perform regularly planned examinations of local office operations.~~ Program Reviewers are assigned to the OCSE Central Office to conduct examinations and evaluations of the quality, efficiency, effectiveness, and scope of services provided under the approved Arkansas Title IV-D State Plan through regularly planned examinations of local office operations. Once each ~~quarter~~ year, program review staff will conduct a statewide self-assessment review. ~~Annually~~, In March of each year, a report will be completed and forwarded to OCSE in Washington D.C. in accordance with federal regulations.

Program Reviewers are responsible for developing monitoring procedures to ensure adherence to policies and procedures established by ~~the OCSE Central Office, Office of Child Support Enforcement~~, in the following areas:

- processing cases
- locating ~~absent parents~~ noncustodial parents
- establishing paternity
- establishing support obligations
- enforcing delinquent obligations
- complying with applicable federal audit criteria
- enforcing medical support

Program Reviewers identify program deficiencies or inadequacies and submit reports of findings to appropriate management staff for corrective action. ~~Follow-up reviews are conducted to assure that local units have corrected the program deficiencies identified in previous reviews.~~
(AT 98-12)

Scope And Method

Standardized criteria have been developed based on program standards and federal audit criteria. A Program Review Questionnaire (~~OCSE-REVW-02, See Forms Appendix~~) is used to compile a descriptive report of practices and procedures used in local OCSE Units offices.

Program Review is a result-oriented compliance review ~~conducted in each field office once every year.~~ Beginning in July of every year, the program review staff will conduct a Primary Review for each of the Regional and Extension Offices. The audit period will be the preceding six months, January through June. A random sample of cases will be pulled from across all counties served by a regional office and the extension offices assigned to it with a comprehensive report prepared for those offices. This will be a full review. The report will be issued in draft form. Offices are encouraged to review the draft report thoroughly and question any negative findings in writing, with supporting documentation attached, within three weeks of the date of the draft report. A final report will be issued 30 days from the date of the draft report.

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Rebuttals will not be considered if received after the final report is issued. Requests for additional time to review the draft report and submit rebuttals must be made in writing to the Quality Assurance Manager for approval.

Beginning in January of every year, the program review staff will conduct an Interim Review for each of the Regional and Extension Offices. The audit period will be the preceding six months, June through December. This will be a regular review of program compliance based on the criteria outlined in the Program Review Questionnaire. Only one report will be issued containing a list of all offices and their scores. Offices will be allowed three weeks from the date of the draft report to rebut any negative findings in writing with supporting documentation attached. A final comprehensive report will be issued 30 days after the date of the draft report. Rebuttals received after the final report is issued will not be considered. Requests for additional time to review the draft report and submit must be made in writing to the Quality Assurance Manager for approval.

There are two ways to get credit for successful completion of casework: 1) ~~act accordingly~~ take all appropriate actions within the time frames; or 2) obtain an order in establishment cases or a collection in enforcement cases within the audit period. ~~Investigators~~ Caseworkers must strive to meet the time frames, ~~because knowing the outcome of a case in advance is impossible.~~

Audit standards have been established. Field offices must be in compliance with regulations regarding case maintenance and closure in 90% of the cases reviewed. A 75% standard has been established for all other activities.

If an audit reveals the local ~~IV-D~~ OCSE office has not complied substantially with the ~~requirements of Title IV-D of the Act~~ audit standards listed below, the ~~Central Office~~ Field Operations Manager will notify the local office in writing of such findings. The notice will list the unmet audit criteria and give the reasons for the finding(s). ~~The notice will list the unmet audit criteria and give the reasons for the findings.~~ The office must submit a corrective action plan to the Central Office that contains a corrective action period, not to exceed one year, and steps necessary to achieve substantial compliance with the ~~requirements of Title IV-D of the Act~~ audit standards listed below. ~~The local office will be reviewed again at the end of the corrective action period. Penalties for noncompliance may be imposed, if appropriate, in accordance with the provisions of the contract or cooperative agreement.~~

~~Quality Control~~ Program Reviewers will ~~be looking at~~ review service-related criteria and administrative criteria, such as statewide operations, reports and maintenance of records, separation of cash handling and accounting functions, and notice of collection of assigned support ~~(the check stub)~~. Examples of service-related criteria include case opening and closure, collection and distribution of support payments, and all other casework activities. ~~Time frames are outlined in the Casework Standards List under tab12 in this manual. See Casework Standards at the end of this chapter.~~

Case work activities have been grouped together to evaluate related requirements and allow audit results to be reported in a more timely manner. Offices must still meet the requirements of each specific regulation cited.

~~Establishment of Paternity and Support~~

The audit standards for establishment of paternity and support are as follows:

- Establishment of a case
- Services to non-TEA applicants
- Services in interstate cases
- Location of NCP noncustodial parent
- Establishment of paternity
- Use of guidelines to set support
- Establishment of support obligations

~~Enforcement of Support Obligations~~

The audit standards for the enforcement of support obligations are as follows:

- Establishment of a case
- Services to non-TEA applicants
- Services in interstate cases
- Location of NCP noncustodial parent
- Enforcement of support obligation
- State and Federal tax offset
- Wage withholding

If wage withholding is not appropriate, any enforcement remedy available under State law must be completed in addition to state and federal tax offset certification in all appropriate cases.
(AT 98-12)

~~Review and Adjustment~~

Audit standards for Review and Adjustment are as follows:

- Establishment of a case
- Services to non-TEA applicants
- Location of NCP noncustodial parent
- Guidelines for setting support awards
- Review and Adjustment of support obligations

~~Medical Support~~

Audit standards for medical support are as follows:

- Establishment of a case
- Services to non-TEA applicants

- ~~Services in interstate cases~~
- ~~Location of NCP noncustodial parent~~
- ~~Securing medical support information~~
- Securing and enforcing medical support

Audit Criteria

1. **Case Closure (90% standard)**
 - a. Closure met one or more of the Federal Closure Criteria (See Chapter 7).
 - b. A 60-day notice was sent to the applicant for services prior to closure.
2. **Establishment of Paternity and Child Support Orders (75% standard)**

Was a child support order established during the review period?

 - a. If yes, the standard was met.
 - b. If no, was service of process accomplished within 90 calendar days of locate? If service of process is not accomplished, all available locate resources must be checked.
3. **Expedited Process (75% standard)**

If expedited process was an issue during the review period:

 - a. Actions to establish support orders, and paternity if needed, from the date of service to the time of disposition should be completed within six months in order to meet the standard. In interstate cases, credit is given for the six-month standard if long-arm jurisdiction applies and the actions are completed in twelve months.
 - b. If actions were taken to establish support, and paternity if needed, from the date of service to the time of disposition, the case meets the standard.
 - c. A. and b. are not applicable if there is insufficient time to complete the actions.
4. **Enforcement of Support Obligations (75% standard)**

If enforcement of the support obligation was an issue during the review period, the case will meet the standard if:

 - a. A wage withholding collection was received in the last quarter of the review period.
 - b. Wage withholding actions were initiated within the required timeframes.
 - c. A collection was received as a result of an enforcement action.
 - d. Other appropriate enforcement actions were initiated within the required timeframes.
 - e. If the noncustodial parent's whereabouts are unknown, all available locate sources must be checked.
5. **Disbursement of Collections (75% standard)**

To meet the standard, the state must disburse amounts payable under § 457(a) of the Act within two business days after receipt from the employer or other source of income if the payment is properly identified upon receipt at the State Disbursement Unit.
6. **Securing and Enforcing Medical Support Orders (75% standard)**

To meet the standard, medical support must be petitioned for when a support order is being established or modified. If medical support is ordered, the Medicaid agency must be informed, the custodial parent must be informed, and the caseworker must request that the insurance provider inform OCSE of lapses in coverage. If the noncustodial parent is providing health insurance and changes jobs, the new employer must be notified to enroll the child(ren) in the noncustodial parent's health plan.

7. **Review and Adjustment of Orders (75% standard)**

For a case to be eligible for review under this standard, one or both parents must have requested review and adjustment of an existing support order and the case must otherwise be eligible for review and adjustment. The eligible case will meet the standard if:

- a. The case was reviewed and adjusted.
- b. It was determined that an adjustment was not appropriate at this time and both parties were notified of the determination.
- c. The review was completed within 180 days of determining that a review should be conducted or locating the non-requesting parent, whichever occurs later.
- d. If the noncustodial parent's whereabouts are unknown, all available locate sources must be checked.

8. **Interstate Services (75% standard)**

Interstate services are review for this standard when two states are involved in providing child support services for the family. The "initiating state" is usually the home state of the custodial parent who is the applicant for services, while the "responding state" is usually the home state of the noncustodial parent. To meet the standard for this audit standard, all timeframes outlined in 45 CFR 303.7 must be met.

Location of the ~~NCP~~ noncustodial parent is included in the criteria that the reviewers will rate in each casework group. If the ~~NCP's~~ noncustodial parent's whereabouts are unknown, all attempts to locate must be made within existing time frames for locate. If the office fails to make the appropriate attempts to locate, the case will be counted as an error for that casework group. (AT 98-12)

Corrective Action Plan

~~A corrective action plan is required when an office is found out of compliance with mandated program standards. Within thirty (30) days of notification the local IV-D office must submit a written plan to the Administrator of the Office of Child Support Enforcement that specifies corrective procedures to be used to bring the office into compliance. The local office may apply, in writing, to the Administrator for an extension if extra time is needed to complete and submit a corrective action plan.~~

~~The corrective action plan must be submitted to the State IV-D office for final review and approval.~~

Each office is required to submit a Corrective Action Plan (CAP) addressing each criterion that scored below the standard for each casework group. The plan should state the problem, probable causes for the failure, actions that are planned to bring the office into compliance, a statement regarding how the office plans to monitor the effectiveness of the planned action, and who will be responsible for monitoring the planned action.

The next primary review report issued after the approval of a CAP will contain a section that compares previous scores to current scores and addresses the effectiveness of the plan.

~~COOPERATIVE ARRANGEMENTS FOR LOCATING NCPs, ESTABLISHING PATERNITY AND SECURING SUPPORT~~

~~OCSE will enter into written agreements for cooperative arrangements with appropriate courts and law enforcement officials. Such arrangements shall contain provisions for providing courts and law enforcement officials with pertinent information needed in locating absent parents, establishing paternity and securing support. Arrangements shall also provide for assistance to OCSE in carrying out the program, and may relate to any other matters of common concern.~~

CASE STATUS REVIEW REQUEST

Individuals may request a review of the status of their child support case or non-IV-D case if they believe an error has occurred or an action should have been taken on the case. A brochure entitled “Request A Review Of The Status Of Your Child Support Case” is available in each child support office and on the child support website. The brochure is provided for the convenience of OCSE customers. However, an administrative review may also be requested in writing or verbally. The brochure is addressed to the Office Manager and requires the person requesting the review to provide essential information to identify the case, a brief explanation of the problem with the case, and contact information. A section of the brochure is to be completed by the Office Manager and includes a brief statement regarding the results of the review and a description of the next action to be taken on the case or a statement that no further action is required. The response may be made on the brochure or by a separate letter. Responses must be made to the person requesting case status within 10 working days. Copies of all requests and responses must be maintained in the case file.

INTRASTATE ACTIVITY REQUESTS

When completion of a case investigation requires that an activity be performed in a distant county, the ~~investigator caseworker~~ to whom the case is assigned, ~~by preparing and sending OCSE 1610, (See Forms Appendix)~~ may request that the activity be completed by the ~~investigator caseworker or Child Support Agency~~ responsible for that county. Before requesting

such activity, the ~~investigator~~ caseworker to whom the case is assigned will exhaust all appropriate methods of completing the activity. The original case documents will always remain with the ~~investigator~~ caseworker to whom the case is initially assigned.

FEDERAL CASE REGISTRY

The Federal Case Registry (FCR) is a federal database within the Federal Parent Locate Service that contains identifying information on all individuals involved in ~~IV-D~~ full OCSE services child support cases ~~or and in non-IV-D orders~~ private child support cases established or modified after October 1, 1998. The FCR contains abstracts of support orders and other information. The purpose of the FCR is to assist states in administering the child support enforcement program. Information in the database is used for the purpose of locating parents, establishing paternity, and establishing or enforcing support orders, and is used for no other purpose. **(Public Law 104-193)**

ARKANSAS REGISTRY OF CHILD SUPPORT ORDERS

OCSE maintains an automated registry of child support orders ~~to be~~ known as the Arkansas Registry of Child Support Orders. The registry contains abstracts of child support orders and other information on each child support ~~case~~ order in the state established or modified on or after October 1, 1998. The registry ~~will further also~~ contains abstracts of all child support orders for cases in which services are being provided by OCSE pursuant to Title IV-D of the Social Security Act.

Abstracts of child support orders and other information on each child support case ~~will~~ includes information as required by the United States Department of Health and Human Services and as specified in federal regulations, including but not limited to the following: names; social security numbers or other uniform identification numbers; and case identification numbers that will identify individuals who owe or are owed child support, or on whose behalf the establishment of support obligations are sought. Information will also consist of the name of the county in which the case is filed.

~~Each child support case in the registry,~~ For each order in which services are being provided ~~for~~ under Title IV-D of the Social Security Act, the registry will also include the following:

- Amount of monthly or other periodic support owed under the order;
- Other amounts owed under the order, including arrearages, interest, ~~or~~ late penalties and fees, ~~which that~~ are due or overdue under the order;
- Information on monies collected and distributed on each case;
- The birth date of any child for whom the order required support; and
- The amount of any lien imposed with respect to the support order.

OCSE will provide payment history information on ~~Title IV-D~~ full OCSE services child support cases maintained in the registry.

When necessary, OCSE will consult with the Administrative Office of the Courts (AOC) to appropriately revise the statistical case data reporting system of AOC to meet requirements of the registry. AOC will advise all clerks of court or other court personnel responsible for completion of the case data reporting of any revised statistical reporting requirements.

Following the Arkansas General Assembly's directives, the registry is established and maintained by modification to the case information reporting system currently administered through AOC without imposing duplicate reporting requirements on the clerks of court. OCSE has access to statistical case information compiled by AOC to administer the registry.

(Public Law 104-193)

IRS INFORMATION SAFEGUARD

IRC § 6103(p)(4) requires that safeguard measures be in place to secure federal tax return information (FTI). The following is a list of safeguards that are required to be in place in every OCSE office:

- Only employees who have a need to know will have access to FTI. Those who have access to FTI are restricted to viewing information for official business only. It is a violation for an employee to access, share or possess his/her own information, as well as that of an associate, friend, relative, or even viewing information randomly selected.
- Employees who have access to FTI will sign a Confidentiality Agreement.
- FTI must be secured by a two-barrier system to prevent unauthorized access/inspection to FTI by persons who are not authorized and do not have a need-to-know.
- Visitors will wear badges in every office at all times.
- Designated OCSE personnel will sign in and identify visitors/vendors. A visitor log will be maintained in every OCSE office and will be retained for two years.
- All documents containing FTI that are no longer needed will be shredded.
- A log will be maintained to record destruction of FTI and other confidential information. The log will be retained in a designated, secure area for five years.
- A Key Inventory Log will be maintained. Internal Affairs will perform a key inventory at least once a year.
- OCSE cannot disclose nor can OCSE receive consent from the custodial parent or noncustodial parent to disclose FTI in open court.
- A custodial/noncustodial parent is entitled to information regarding a collection resulting from a tax intercept. A custodial/noncustodial parent may be told that a tax intercept is being held, the amount of the tax intercept, that the intercept is a joint return, when the intercept is expected to be released, and the conditions required for early release.
- Printed pay histories will not reveal the source of payments.
- Documents containing FTI will be mailed in such a way as to indicate there is confidential information enclosed and to ensure the proper person receives the documents.
- Upon access of ARCSIS, the user is informed that he/she may have access to IRS information. Printouts containing FTI will be identified and secured accordingly.

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- The system will not generate a source code when printing postal tracers.
- Each OCSE office will be assessed according to what measures will need to be taken in order to prevent unauthorized access to FTI.
- Each field office will conduct self-inspections with respect to FTI security. Designated personnel will conduct physical site inspections in each office within a three-year inspection cycle.
- Before new employees have access to FTI, training will be required. Present employees are required to attend training as soon as time permits. Each employee will be certified as understanding the agency's security policy and procedures for safeguarding IRS information. Employees will be required to maintain their authorization to access FTI through annual recertification.
- A warning banner advising of safeguarding requirements will be displayed on the screen of any computer accessing a system that stores, processes, or transmits FTI.
- Back up tapes for the OCSE system are stored in a fire-safe vault.
- Locks will be on all doors containing telecommunication equipment. A sign will be kept on the door indicating that unauthorized personnel are not allowed in the closets.
- OCSE Information Systems will utilize an audit service. The Network Manager is responsible for monitoring and reviewing audit logs. Audit logs will be retained in the Safety Deposit Box in Bank of America.
- Upon discovery of a possible improper inspection or disclosure of FTI by a Federal employee, a State employee, or any other person, the individual making the observation or receiving information should contact the Treasury Inspector General For Tax Administration, P.O. Box 589, Ben Franklin Station, Washington, D.C. 20044-0589, Phone 800-366-4484.

Casework Standards

Federal law and regulations require OCSE to take appropriate actions within certain time frames as outlined below:

Federal Cite	Function	Time Frame	Requirement
45 CFR 303.2	Establishment of cases and maintenance of case records	Same day	Provide application for IV-D services if requested in
		Within 5 working days	Provide application for IV-D services if requested by information describing available services, the individual and the State's fees cost recovery and distribution plan applications for services and must be provided to the care applicants or recipients.
		Within 20 calendar days	Open a case record and determine the necessary action
45 CFR 303.3	Location of NCP	Within 75 days of determining that location is necessary	Access all appropriate location sources including tribal Federal PLS, and ensure that location information is appropriate action in a case. At a minimum, the following: <ul style="list-style-type: none"> • Custodial Parent • FPLS • US Postal Service • State Employment Security Agency (ESD) • Unemployment Data • Department of Motor Vehicles • Credit Bureaus Refer appropriate cases to the IV-D agency of any other state. Repeat location attempts if appropriate.
45 CFR 303.4	Establishment of support obligations	Within 90 days of locating the alleged father or noncustodial parent	Regardless of whether paternity has been established, complete service of process necessary to commence support order and, if necessary, paternity (or document process).
45 CFR 303.5	Establishment of paternity	75% in 6 months 90% in 12 months	Provide an alleged father the opportunity to voluntarily attempt to establish paternity by legal process established
45 CFR 303.6	Enforcement of support obligations	On the date the parent fails to make payments in an amount equal to one month support	Initiate Income Withholding if the employer is known
		Within 30 calendar days of identifying a delinquency, other support related non-compliance, or locate of the noncustodial parent	Take any appropriate enforcement action (except income State income tax refund offset or passport denial) unless necessary.

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Federal Cite	Function	Time Frame	Requirement
		Within 60 calendar days of identifying a delinquency or other support related noncompliance or locate of the noncustodial parent	If service of process is necessary prior to taking an action, it must be completed (or unsuccessful attempts to serve process must be made) in accordance with the State's guidelines defining diligent action taken.
45 CFR 303.7	Provision of services in Interstate IV-D cases	Within 10 Days of receiving a case	The Central Registry must: <ul style="list-style-type: none"> Review documentation submitted for complete Forward the case for necessary action Acknowledge receipt of the case and request to inform the other state where the case has been
		Within 5 working days	The Central registry must respond to a request for case information
		Within 20 calendar days of determining that the noncustodial parent is in another state	The state must refer any interstate IV-D case to the central registry for action including UIFSA petitions, document verification, administrative reviews in Federal cases, wage withholding, and state income tax refund
		Within 30 calendar days of receipt	Provide requested information or notify the respondent that it will be provided.
		Within 20 calendar days of receipt	Send a request for review of a child support order to the responding state
		Within 75 calendar days of receipt of a case from the Central Registry	The Local Office must: <ul style="list-style-type: none"> Provide location services, if appropriate. Notify the initiating State of inadequate documentation Process the case to the extent possible.
		Within 10 working days	Forward the case to the appropriate jurisdiction with the parent is located in another jurisdiction within the State
		Within 10 working days	If the noncustodial parent is located in a different state: <ul style="list-style-type: none"> Return the case (including new Locate Information) If directed by the initiating state, forward the case to the state where the noncustodial parent was located.
		Within 2 business days of collection	Forward payments to the address specified.
		Within 10 Working days	The IV-D agency in the responding state must notify the initiating state of any new information on a case

Chapter 3

CASE INITIATION AND LOCATE

CASE CATEGORIES

OCSE has established the following as child support case categories:

OCSE Case – A case open with OCSE for full child support services, or a case for medical support services only, received either by referral from the Department of Human Services (DHS) (Temporary Employment Assistance [TEA], Foster Care, or Medicaid) or by application. Includes interstate cases referred for full child support services by child support agencies in other states. Examples of OCSE cases are:

- A TEA ~~IV-D~~ OCSE case is one in which the custodian receives TEA in the form of a monetary grant.
- A IV-E Foster Care case is one in which the child, who is in foster care, is eligible for TEA or would have been eligible had an application been made.
- A Medicaid case is one in which the custodian and/or the child(ren) receives Medicaid. OCSE will provide full child support services in all cases referred by DHS, unless the custodian elects in writing to receive medical support services only. The custodian must cooperate with child support enforcement to establish and or enforce a medical support order.
- A non-TEA case is one in which any individual who does not receive TEA, Medicaid, or IV-E Foster Care service has applied for child support services.
- A former TEA, former Medicaid, and former IV-E Foster Care case is one in which the custodian no longer receives TEA, Medicaid or IV-E Foster Care assistance, but continues to receive child support services.
- Non-IV-E Foster Care cases are state funded when the child(ren) is (are) not eligible or would not have been eligible for TEA at the time of placement. By agreement with DHS, attorneys, a Foster Care Referral for Child Support Services is completed by a DHS attorney and forwarded, with a copy of the court order, to the Program Support Section to the IV-A/IV-D Interface Unit for case initiation and assignment to the appropriate local county office.
- OCSE recovery cases are those cases where OCSE is providing enforcement services to collect arrears owed to the family, to the State, or to both. These cases are those where current support has ended due to emancipation of the children or where the support was abated by court order.

Non-IV-D Payment Processing Case - ~~monitoring case is~~ A former ~~IV-D~~ OCSE case ~~on~~ in which payments continue to be processed through the Clearinghouse or a private case referred to the Arkansas Child Support Clearinghouse for payment processing because payments are being paid through income withholding. OCSE is not actively involved in collecting money owed to the custodian.

Split-Debt Case – A former OCSE case where current support and/or arrears are owed to the custodian and permanently assigned arrears are owed to the state. OCSE is not actively involved in collecting money owed to the custodian. Child support payments received by the Clearinghouse are disbursed to the family. OCSE will certify the amount owed to the state to the Federal Tax Offset program and retain any collection to offset the amount owed to the state. The amount owed to the family is not eligible for certification under current federal regulations. No other enforcement remedies will be utilized to collect state debt until the debt owed to the family is recovered. (AT 99-14)

ASSIGNMENT OF RIGHTS IN TEA CASES

As a condition of eligibility for TEA, each applicant is required to cooperate with the State in establishing paternity if necessary, establishing a child/medical support order, and enforcing that order. By accepting ~~a grant~~ a monetary grant provided by the ~~Arkansas Department of Human Services (DHS) under the Transitional Employment Assistance Program~~, for or on behalf of a non-SSI dependent child, the custodian ~~must~~ assigns to the State any rights to child support. For assignments made prior to 10/1/98, any support that has accrued at the time the applicant applies for services becomes permanently assigned to the State. If the assignment is made after 10/1/98, any support that has accrued at the time the applicant applies for services is temporarily assigned to the State. Arrears that accrued prior to the most recent period of assistance revert back to the family when the family leaves assistance. Arrears that were previously assigned and exceed the amount of assistance paid to the family become “unassigned arrears” and are paid to the family. The assignment is limited ~~by~~ to the total accumulated unreimbursed assistance or the total unpaid child support, whichever is less. DHS ~~shall notify~~ is responsible for notifying each applicant ~~for assistance~~ in writing that acceptance of assistance will result in an automatic assignment of support rights. The TEA custodian is not charged a fee for any services provided by ~~the Office of Child Support Enforcement~~ OCSE. TEA ~~IV-D~~ referrals may originate from:

- The DHS County Office certifying the TEA case which includes an assignment of support.
- The ~~IV-D~~ child support enforcement agency of another state in which the custodian is receiving ~~TEA~~ public assistance and has made an assignment of support.

The Arkansas Client Eligibility System (ACES) is the source of all referrals to ~~IV-D~~ OCSE for Arkansas TEA cases.

(45 C.F.R. § 232.11; Ark. Code Ann. § 9-14-211)

~~REFERRALS OF IV-E FOSTER CARE CASES~~

~~The DHS County Office will make referrals for IV-E Foster Care cases to the Office of Child Support Enforcement according to DHS Financial Assistance Policy. DHS is the source of all referrals to IV-D OCSE for IV-E Foster Care.~~

MEDICAID REFERRALS

~~OCSE services are provided to families who apply for or receive Medicaid if a parent is absent from the home of any children under age 18. If a Medicaid recipient does not want services unrelated to securing medical support, caseworkers should file the recipient's written notification in the permanent case record and provide only those services related to securing medical support. However, state law requires that NCP's must make child support payments through the clearinghouse. These cases are automatically assigned to IV-D when the applicant is approved to receive Medicaid for a child, therefore, no cost will be assessed or recovered. However, if a Medicaid only case has transferred from a non-TEA category and there were costs on the non-TEA case, cost recovery will continue on the Medicaid case until the existing non-TEA costs have been recovered.~~

Mandatory Medicaid Referrals

Cooperation is required for certain categories of Medicaid cases referred to OCSE. In these cases, the full range of child support services are provided, unless the custodial parent elects in writing to receive medical support services only. If the custodian fails to cooperate, please refer to OCSE Policy (Chapter 3). These categories are:

- Child under 18, Categories 51, 56, and 57. These cases involve a child who has been placed in a treatment facility. OCSE provides services in these cases if there was a parent absent from the home at the time of placement and an OCSE case is open against that absent parent - not against both parents. If both parents are in the home at the time of placement and the placement was not due to abuse or neglect on the part of the parents, OCSE is not required to provide services. DHS makes the determination and refer cases as appropriate.
- Foster Care cases, categories 91, 92, 96, and 97.
- Medicaid cases with a parent who is also a recipient of benefits. Note that children may receive services under one Medicaid number and the parent may receive services under a different number.

TEA/MEDICAID CASES WITH BOTH PARENTS IN THE HOME

~~IV-A will refer cases to OCSE when both parents are living in the home if paternity is an issue. OCSE will take appropriate steps to establish paternity by administrative process or judicial proceeding and then close the case so long as both parents remain in the home.~~

DHS will refer cases to OCSE when both parents are living in the home if **paternity is an issue**. OCSE will assist the parents to acknowledge paternity by administrative process, including DNA testing if requested by one of the parents. **Once paternity is established, the case will be closed.**

APPLICATION FOR NON-TEA SERVICES

Custodial Parent Request

Child support services ~~shall be made~~ are available to individuals who file an application with OCSE for services. OCSE ~~may~~ charges a nonrefundable application fee of \$25.00 to any person who ~~contracts~~ files an application with OCSE for ~~any~~ services under Title IV-D of the Social Security Act. The applicant for services does not have to be a resident of Arkansas.

- OCSE will provide child/medical support services to any individual who applies on behalf of a child and will enforce any support obligation established for a child receiving services or the custodian of a child receiving services. This applies to interstate ~~eases~~ and intrastate cases.
- ~~OCSE will provide child support services to recipients of assistance under Title IV-A, Title IV-E, Title XIX, and to individuals who apply on behalf of a child. OCSE will also enforce any support obligation established for a child receiving services or for the custodian of the child.~~
- In an ~~IV-D~~ interstate case, only the initiating state may require an application. OCSE will accept referrals from another state on behalf of a child, regardless of age, and provide services available under state law.
- OCSE will not accept interstate transmittals from ~~non-IV-D agencies~~ any organization that does not have an approved State Plan as required by Title IV-D of the Social Security Act or from individuals without a completed application for services.
- The State ~~PLS~~ Parent Locator Service (SPLS) shall only accept requests to use the ~~FPLS~~ Federal Parent Locator Service (FPLS) from any State or local agency or ~~any official parent, attorney, or agent for a child seeking to collect a child, and spousal, and/or support obligation, or medical support obligation(s) under the State Plan, or from those~~

stated above who are seeking information regarding an individual involved in a child custody or parental kidnapping case. (AT 02-04)

- ~~Services shall also be made available~~ are provided, without an application, to ~~non-TEA Medicaid recipients upon request or~~ those individuals who are no longer eligible for assistance under the TEA, IV-E foster care and Medicaid programs. DHS notifies OCSE whenever a family becomes ineligible for TEA stops receiving assistance. OCSE must notifyies the family within five working days of the notification of ineligibility that child support services will be continued, and of the consequences of continuing to receive services, unless OCSE is notified to the contrary by the family to discontinue services.
- ~~The following are examples of situations that may occur, prompting an individual to apply for services:~~
- ~~The mother of a minor child born out of wedlock, may establish paternity for the child, when establishing paternity would be in the best interest of the child and an Affidavit Acknowledging Paternity has not been completed.~~
- ~~A NCP may apply for child support services to establish paternity and child/medical support or for review of an existing child support order.~~
- ~~If there is NO existing court order for support, then no case can be opened if the child has reached the Arkansas age of majority, i.e. 18 years of age. Children listed in the application for services must be under the age of 18 if no court order exists. Parents may also apply to recover unpaid child support if the youngest child is between the ages of 18 and 23 and the amount to be recovered is based on a court order.~~
- The applicant for services cannot be the child. OCSE does not have the ~~ability~~ authority to establish or enforce an obligation on behalf of the child if the “child” is 18 or older, whether or not the UIFSA state has legislation allowing same. Additionally, for Arkansas residents or persons requesting services directly from Arkansas OCSE, cases will not be accepted for establishment or enforcement from the child, as the statute does not allow ~~us~~ OCSE to bring an action for the “child over 18” - that right is reserved to the “child” only.
- OCSE will not provide services if the noncustodial parent is deceased.
- With the exception of mandatory Medicaid cases, applicants cannot choose among services to be provided. For example, the applicant cannot request paternity but no support order, or a support order but no income withholding. Mandatory Medicaid applicants may elect to receive medical support services only. OCSE will address the medical support needs of the child unless the custodian indicates in writing that medical support services are not needed.

~~Applicants should contact the local Office of Child Support Enforcement or OCSE Central Office to obtain forms to apply for non-TEA services.~~

Applications for child support services are available on the Child Support Website at http://www.accessarkansas.org/dfa/childsupport/cs_forms.html, or interested parties may contact the child support office nearest them.

~~Each IV-D agency OCSE is required to provide an application to any individual who makes the request. When the request is made in person, the application is to be provided on the date of request when requested in person. When a request is made in writing or by telephone, OCSE and is required to send the applications to individuals within no more than five working days of a written or telephone request. All offices must maintain a log of applications requested/sent. The local Office of child support office Enforcement is assigned responsibility for accepting completed non-TEA applications for child support enforcement services. Non-TEA applications for new or reopened cases must be processed by the office receiving the application. The office receiving the completed non-TEA applications for new or reopened cases must process the application locally. OCSE must address the medical support needs of the child unless the custodian proves that he/she has adequate medical coverage other than Medicaid.~~

The applicant must complete a separate application for each NCP noncustodial parent named in the request for Child Support Enforcement Services and pay a separate application fee for each noncustodial parent.

It is the applicant's responsibility to complete the Application and Contract for non-TEA Child Support Services (~~OCSE-1601~~) and return the forms to the OCSE local office along with supporting documents: divorce decrees, orders for child/medical support, and all modifications to original orders.

Completed application packets may also be mailed to the OCSE Central Registry, P. O. Box 8133, Little Rock, AR 72203. Upon completion receipt, the application packet (~~OCSE-1601 Application and Contract for Non-TEA Child Support Services~~) and all supporting documents will be forwarded to the local child support office for processing. A letter of acceptance ~~and explanation of services (OCSE-FIN 06, Non-TEA Acknowledgment Letter)~~ will be sent to the applicant. If the application is incomplete to the extent that work on the case cannot begin (e.g., the contract is not signed or no NCP the noncustodial parent or child is not listed), ~~if the application and fee~~ will be returned to the applicant for completion. Otherwise, the application will be accepted, entered in the data system, and sent to the appropriate caseworker. The OCSE caseworker should contact the custodian for any additional information needed. If the applicant requests services that cannot be provided, the application packet will be returned to the applicant with a cover letter stating the reason(s) ~~for nonacceptance of the application~~ why the application was rejected.

(45 C.F.R. § 302.33; Ark. Code Ann. §§ 9-14-105(b)(4), 9-14-105(c))

Noncustodial Parent Request

Noncustodial parents may apply for child support services in order to request review and adjustment of an existing support order. As the applicant for services, the noncustodial parent

must pay the \$25 application fee. Noncustodial parents sign a contract for services agreeing that, when the requested services have been provided, the case will close. The noncustodial parent also agrees to be responsible for all costs associated with providing the requested services.

~~PROCESSING NON-TEA APPLICATIONS~~

~~Local OCSE offices and Central Registry are responsible for processing non-TEA applications when any of the following circumstances exist:~~

- ~~• Opening a new case or reopening a closed case when a new application for services has been completed.~~
- ~~• Adding a child when a case already exists on the noncustodial parent (NCP) and custodian.~~
- ~~• Changing a case category when an active case already exists for the NCP, custodian and children.~~

Social Security Number Requirement

OCSE requires a Social Security number for every person receiving services. Each applicant for non-TEA ~~IV-D~~ OCSE services must either have a social security number or ~~apply for one through the Social Security Office~~ show proof that one has been applied for through the Social Security Office. A non-TEA application will not be delayed pending receipt of a social security number. When a number is assigned, the Social Security Administration notifies the agency through the enumeration system. It will not be necessary for the custodian to ~~bring~~ hand-deliver or mail ~~in~~ the social security card. (Public Law 104-193)

~~QUESTIONNAIRE FOR FORMER TEA/MEDICAID~~

~~When a TEA, Medicaid and IV-E Foster Care case closes, a Notice to Former Recipient (OCSE-FIN 30) is system-generated and mailed to the custodian within five working days of the notification of ineligibility advising that the child support enforcement services will continue. Transitional Medicaid clients will receive notice of continuing service within five working days of the termination of extended Medicaid eligibility.~~

~~Services must continue unless the client requests closure in writing. Non-TEA costs will be assessed to the case and will be held out of child/medical support collections beginning the month after the month the TEA, Medicaid or IV-E Foster Care case is closed.~~

COOPERATION REQUIRED BY THE CUSTODIAN

As a condition of eligibility, each TEA, Medicaid and IV-E Foster Care applicant or recipient is required to cooperate with OCSE to obtain child support including, but not limited to, the following requirements:

- Identifying and locating the NCP's noncustodial parent of children for whom assistance is requested.
- Establishing paternity of children born out of wedlock for ~~which~~ whom assistance is requested.
- Obtaining support payments due children for whom assistance is requested.
- Consent to the release of children's social security number for enrollment in a Health Care Plan.
- Obtaining any other payment or property due children for whom assistance is requested.
- Appearing at the office of this agency as necessary to provide verbal or written information or documentary evidence known to, possessed by, or reasonably expected to be obtained by the applicant or recipient.
- Appearing as a witness at court or other hearings or proceedings as necessary, such as submitting self and child for genetic testing for paternity establishment.
- Providing information, or attesting to the lack of information, under penalty of perjury.
- Paying to the Office of Child Support Enforcement or the Arkansas Child Support Clearinghouse any child/medical support payments received directly from the NCP noncustodial parent covered by the assignment of child/medical support.
- ~~Entering into a formal repayment agreement to pay back any child/medical support payments covered by the assignment received directly from the NCP noncustodial parent and retained by the custodian unless repayment of such support is made in full within thirty (30) days of the date the custodian is notified of the overpayment.~~
- ~~Complying with the repayment agreement by making regular payments according to the terms of the agreement. Failure to make two (2) consecutive payments will be considered noncooperation.~~
- Any other act or omission deemed to constitute noncooperation. Facts constituting noncooperation must be summarized in detail by the ~~investigator~~ caseworker.

In a like manner, non-TEA custodians ~~will~~ must assist in establishment or enforcement efforts as their cases require. Cooperation by non-TEA custodians includes adhering to all provisions of ~~the form OCSE-1601, Application and Contract for Non-TEA Child Support Services.~~ If a non-TEA custodian moves or changes ~~their~~ his/her address, ~~they have the responsibility of providing a forwarding address to OCSE~~ must be provided to OCSE.
(45 C.F.R. § 232.12)

Contact With ~~Client~~ the Custodian

Assistance from the custodian may be necessary at the beginning of the case investigation and/or later as individual case circumstances require. In those cases ~~requiring where~~ assistance from a custodian is required, the ~~investigator~~ caseworker or attorney will contact the custodian to request the necessary assistance. When contacting the custodian for assistance, the ~~investigator~~ caseworker will use the most appropriate methods, which may vary depending on resources available and time limitations involved.

Reporting Non-Cooperation Of TEA Custodians

If a custodian willfully fails to comply with any of the cooperation requirements, he or she will be considered noncooperative unless a “Good Cause” finding has been determined by DHS. The OCSE ~~investigator~~ caseworker will assess the circumstances surrounding the custodian’s failure to cooperate, and will determine whether he or she has willfully failed to comply. If the ~~Investigator~~ caseworker concludes that the custodian has willfully failed to comply, he or she will notify the ~~noncooperative~~ custodian of his or her noncompliance, and will summarize the facts constituting the finding of noncooperation. The notice will be sent by certified mail and will allow the ~~noncooperative~~ custodian 10 business days from the date the notice was sent to cooperate or request an administrative hearing before OCSE notifies DHS of the noncooperation finding.

If the custodian fails to comply or fails to request an Administrative Hearing within 10 days from the date the noncooperation notice was sent, OCSE will notify the local DHS county office of the noncooperation finding. DHS will apply appropriate sanctions. An administrative hearing must be requested within the 10-day time frame in order to preserve cash assistance payments while the hearing is pending.

Administrative Hearings must be requested within 30 days of the date the noncooperation notice was sent. However, when the request is received after the 10-day time frame ~~and if applicable~~, sanctions, if applicable, will remain in place pending the outcome of the Administrative Hearing.

The custodian may contact OCSE at any time to furnish the requested information, as stipulated by Federal Law and Transitional Employment Assistance (TEA) Policy. If the custodian contacts OCSE after 10 days from the date the noncooperation notice was mailed and provides the ~~Investigator~~ caseworker with the necessary information needed for working his or her child support case, a subsequent notice will be sent to DHS informing them of the custodian’s cooperation and requesting them to remove any sanctions previously applied.

When the custodial parent has fully complied with the cooperation requirements, the caseworker will notify DHS to remove the sanctions.

The ~~investigator~~ caseworker or attorney will continue to pursue child support efforts to the extent possible after the Notice of Failure to Cooperate (~~OCSE 1650-C-B~~) has been sent (~~See Forms Appendix~~).

(Public Law 104-193)

Administrative Hearing Request

A custodian may request an Administrative Hearing by submitting a request in writing to the OCSE Appeals and Hearings Office no later than 30 calendar days ~~after receiving from the date on the~~ notification of the adverse action. Requests must be forwarded to Appeals and Hearings, OCSE, P. O. Box 8133, ~~712 W. 3rd~~ 400 East Capitol, Little Rock, AR 72203.

Good Cause Claims

When the ~~Office of~~ child support office is notified of a Good Cause Claim, the ~~investigator~~ caseworker or attorney working the case will immediately discontinue activity on the case and place a family violence indicator on the file for the victims in the case. If the Good Cause Claim is approved, the ~~IV-D~~ OCSE case is closed and no further action is taken. If the claim is denied, then appropriate child support activities will resume. ~~Subsequent to a finding of "good cause," a putative father will not be allowed to open a case to establish paternity.~~

Mandatory Address Updates

Upon the entry of an order, the ~~NCP~~ noncustodial parent and custodian ~~shall be required to~~ must keep ~~the clerk of court and~~ OCSE updated with their current residential mailing address, social security number, telephone number, driver's license number, and their employer's name and address if child support payments are paid through the registry of court or the Arkansas Child Support Clearinghouse. (Public Law 104-193; Ark. Code Ann. § 9-14-205)

SOCIAL SECURITY NUMBER REQUIREMENTS FOR MARRIAGE, OCCUPATIONAL, PROFESSIONAL, OR BUSINESS LICENSE APPLICATIONS

Arkansas Code mandates that on and after August 1, 1997, all persons, agencies, boards, commissions, or other licensing entities issuing marriage or any occupational, professional, or

business license ~~shall~~ must record the name, address, and social security number of each person applying for such licenses on the license application. Those persons, agencies, boards, departments, commissions, or other licensing entities that issue 500 or more licenses each year, or that have a membership of 500, ~~shall be~~ are required to implement an automated data system capable of transmitting licensee information to OCSE. The license data base ~~shall~~ may be transmitted or made available to OCSE quarterly. The information will be used ~~for cross matching locations and enforcement of~~ for the purpose of enforcing child support obligations.

The name of any member or representative of a licensing entity who refuses to provide license information to OCSE shall be certified by OCSE to the Office of the Governor and to the Arkansas Legislative Council.

Member and applicant social security number information shall not be released publicly, and shall be excluded from the open public record requirements of the Arkansas Freedom of Information Act, codified at § 15-15-101 et seq. Disclosure of social security information without the consent of the individual or without court authorization shall be a class B Misdemeanor. Confidentiality requirements associated with the collection and maintenance of social security numbers by the licensing entity shall be appropriately disseminated and posted in the licensing entity's offices.

(Public Law 104-193; Ark. Code Ann. §§ 9-11-201, 17-1-104)

CENTRAL REGISTRY

The Central Registry is a separate ~~office section~~ within ~~the State Agency~~ OCSE Central Office that receives all incoming interstate ~~IV-D OCSE~~ cases and ~~SPLS~~ State Parent Locator Services (SPLS) requests. The Central Registry also reviews all interstate cases for completeness and makes assignments to appropriate ~~county~~ local offices.

Central Registry Responsibilities

Within 10 days of receiving the interstate referral, the Central Registry will:

- Review the case for completeness.
- Forward to SPLS or appropriate county office.
- Request any missing documentation from the initiating state.
- Inform the initiating state of the assigned ~~county~~ office and the name and address of the contact person.
- Forward the case to the appropriate ~~county~~ office for any action that can be taken pending receipt of requested documents omitted from the original packet, if applicable.

~~Any requests to the Central Registry from other states regarding status of cases referred to Arkansas will be answered by the Central Registry within five (5) days. The Central Registry will answer requests from other states regarding the status of cases referred to Arkansas but not~~

yet assigned to a local office within five days. Field staff will answer status requests from the initiating state if the case has been assigned to a local office. (45 C.F.R. § 303.7(a))

State Parent Locate Service (SPLS)

SPLS is a function of the Program Support Section in the Central Office ~~operating according to federal guidelines.~~ The Program Support Section has the responsibility of receiving requests for locate information from local units, OCSE ~~investigators~~ caseworkers and other state OCSE ~~child support~~ child support agencies. Such requests will be accepted only for establishing paternity and/or securing child/medical support for dependant children. Once all local resources have been exhausted, the ~~investigator~~ caseworker will request an SPLS search using the data system. ~~(See ACTS Users Manual for complete instructions.)~~

If an out-of-state search has been requested, SPLS will initiate the search to each appropriate state. SPLS personnel will update information regarding any additional requirements of other states as necessary.

(45 C.F.R. § 303.70)

Federal Parent Locate Services (FPLS)

In those cases in which the ~~NCP~~ noncustodial parent cannot be located through the local or state locate efforts, an FPLS search will be initiated. FPLS interfaces with Internal Revenue Service, Social Security Administration, Veteran's Administration, National Personnel Records Center and the Department of Defense. FPLS can also be used to obtain locate information in parental kidnapping, pending adoption cases, and child custody cases. ~~Requests for information will be accepted only from authorized persons as defined later in this chapter.~~

OCSE may request and receive information from the following sources: Federal Parent Locator Service; ~~from~~ available records in other states, territories, and the District of Columbia; ~~from~~ the records of all state agencies; and ~~from~~ businesses and financial entities for locating and determining resources of ~~NCP's~~ noncustodial parents. State and local government agencies, businesses, and financial entities shall provide information, if known or chronicled in their business records, notwithstanding any other provision of law making the information confidential.

(45 C.F.R. § 303.69 70)

~~Use Of FPLS~~ **Federal Parent Locate Service For Use In Parental Kidnapping And Child Custody Cases**

~~Applications to use FPLS will be accepted to obtain locate information in parental kidnapping or child custody cases. Requests for information will be accepted from courts or agents of courts and agents or attorneys of the United States. Authority or jurisdiction to act in connection with a parental kidnapping or child custody case is required. (45 CFR 303.15)~~

~~Records Search For Kidnapping And Child Custody Cases~~

~~The same level of FPLS search will be provided in cases of parental kidnapping and child custody cases as are provided for the purpose of establishing paternity or securing child/medical support. (45CFR 303.21)~~

Requests for Information from the Federal Parent Locator Services (FPLS)

The Social Security Act (the Act) specifies the parameters for FPLS location requests. As set forth in the Act:

- Information may be requested only for an authorized purpose;
- The requestor must be an authorized person;
- Only specified information may be provided for a particular purpose;
- Information shall be used or disclosed only as expressly permitted in the Act.

Federal regulations require state IV-D agencies to honor authorized requests for FPLS location information and submit them to the FPLS using the State Parent Locator Service (SPLS). (45 C.F.R. § 302.35) Authorized Federal agents or attorneys may request FPLS information directly from OCSE.

Each of these parameters is addressed in more detail below with respect to use of the FPLS in cases of parental kidnapping or for custody and visitation purposes.

- **Authorized Purpose:** Title IV-D of the Act authorizes use of the FPLS for enforcing a Federal or state law with respect to the unlawful taking or restraint of a child by a biological parent, often referred to as parental kidnapping, or for determining the whereabouts of a parent or child for the purpose of making or enforcing a child custody or visitation determination. (Sections 453(a)(3) and 463(a) of the Act; 42 U.S.C. 653(a)(3) and 663(a).) In this context, “custody or visitation determination” means a judgment, decree, or other order of a court providing for the custody or visitation of a child. The term includes permanent and temporary orders, and initial orders and modifications. (Section 463(d)(1) of the Act; 42 U.S.C. 663(d)(1).)
- **Authorized Person:** Title IV-D of the Act permits only specified authorized persons to obtain FPLS information in the case of an unlawful taking or restraint of a child or for making or enforcing a custody or visitation order. For these purposes, the term “authorized person” means:
 - Any agent or attorney of any state... who has the duty or authority under the law of that state to make or enforce a child custody or visitation determination;
 - Any court having jurisdiction to make or enforce a child custody or visitation determination, or any agent of such court; and

- Any agent or attorney of the United States, or of a state having an agreement under this section, who has the duty or authority to investigate, enforce, or bring a prosecution with respect to the unlawful taking or restraint of a child. (Section 463(d)(2)(A)-(C) of the Act; 42 U.S.C. 663(d)(2)(A)-(C).)

Under the Act, a parent seeking to locate another parent or a child in a case of parental kidnapping or for custody or visitation purposes is not an “authorized person” and may not receive FPLS information. Nor is a private attorney considered an authorized person for purposes of requesting FPLS information in such cases. The information provided to the authorized person is for his or her own use to enable him or her to proceed with making or enforcing a custody or visitation determination or investigating or prosecuting the unlawful taking or restraint of a child.

- **Authorized Information:** Information that may be obtained from the FPLS includes only the most recent address and place of employment of the parent or child whose location is sought.

Upon receipt of any response from the FPLS, OCSE is required to send the information directly to the court or other authorized person that requested it. Afterwards, OCSE must destroy any confidential records and information related to the request.

- **OCSE Responsibilities:** When OCSE receives a request to use the FPLS for parental kidnapping, child custody or visitation purposes, OCSE must ensure the requestor is the proper entity in the state for making such a request and, further, that the authorized requestor understands that no re-disclosure is permissible, except to another authorized court or agent or attorney of the state.

The Act also prohibits the disclosure of FPLS information to an authorized person if a state has notified the FPLS that the state has reasonable evidence of domestic violence or child abuse and that disclosure of such information could be harmful to the custodial parent or the child of such parent. (Sections 453(b)(2) of the Act; 42 U.S.C. 653(b)(2).)

- **Requesting FPLS Information:** Except for requests from authorized Federal agents or attorneys, which come directly to OCSE, the SPLS is the mechanism for submitting requests to the FPLS.
(AT 03-06)

Safeguards When Using Federal Parent Locate Service (FPLS)

All information obtained from the use of FPLS will be treated as confidential and safeguarded as required by the provisions of OCSE Policy, Chapter 2. States submitting requests for information via remote terminal on preprinted FPLS forms or by letter must have on file a signed certification with the FPLS that affirms:

- The request is being made to locate an individual for the purpose of establishing paternity or securing child/medical support and for no other purpose.

- The Program Support Section has made diligent and reasonable efforts to find the ~~NCP~~ noncustodial parent and cannot locate the person.
- The Program Support Section has taken protective measures to safeguard the personal information being transferred and received through FPLS.

OCSE maintains, and will continue to maintain, such a certification with FPLS. This certification will be renewed semiannually or upon change of the Administrator of OCSE or appropriate designee.

Access to information obtained from FPLS for use in parental kidnapping and child custody cases are restricted to Program Support personnel. The OCSE Central Office Program Support Section is responsible for storing data collected and otherwise ensuring confidentiality. The Program Support Section will forward any information obtained directly to the applicant, make no other use of the information, and destroy any records related to the request that are confidential in nature.

Documents

All documents associated with FPLS that contain confidential information concerning noncustodial parties will be accessible only to authorized OCSE personnel. All such documents will be maintained in a secure, locked area when not in use.

Computer files and documents will be protected by security measures in place in Data Processing and Administrative Services Sections. Printouts and other computer documents generated for use by ~~the IV-D agency~~ OCSE will be disposed of in such a manner that none of the contents come into the possession of unauthorized persons.

(45 C.F.R. § 303.21)

ESTABLISHING A CASE

Within 20 calendar days of the referral of a new or reopened case, the local office must establish a case record and assess the information provided to determine the next appropriate action which may include:

- Interviewing the custodian;
- Initiating verification of information; or
- If location information is inadequate, initiating locate efforts.

(45 C.F.R. § 303.2)

Maintenance Of Case Records

The ~~investigator~~ caseworker is responsible for the maintenance of a case record for each individual case in an assigned caseload. The record must contain all documents related to the case from the time of referral until closure. A written narrative containing a history of all contacts with the custodian and noncustodial parent (~~NCP~~), all attempts to locate the ~~NCP noncustodial parent~~, all legal activity, any activity related to an adjustment of a disbursement of child support collections, and any other activity related to the case must be maintained in the data system. (45 C.F.R. § 303.11(d))

Retention Of Case Records

Local office staff must retain records for closed cases for a minimum of three years.

Field Managers or their designees may determine that a case record should be retained for a longer period.

~~Case records that have been selected for destruction will be reviewed by Field Managers or their designee who will arrange to have case records destroyed by burning or shredding. The Field Manager, or a designee, will review case records selected for destruction and will arrange to have the case records destroyed by burning or shredding. This~~ The method of destruction will must ensure the confidentiality of the contents of the case record. (45 C.F.R. part 74)

~~SUSPENSE~~ Suspended Members

~~Cases~~ Members may be suspended for a specific date in the future if one or more of the following conditions exist:

- The ~~NCP noncustodial parent~~ is incarcerated and the parole eligibility or release date is known;
- The ~~NCP noncustodial parent~~ is a student and a support obligation is undetermined;
- Any circumstance in which ~~a case~~ child support may be uncollectible for a definite period of time;
- The court temporarily abates support;
- ~~The NCP noncustodial parent has filed bankruptcy and action seeking relief from the automatic stay is pending.~~

LOCATE

Locate Resources

OCSE may request information regarding the assets or whereabouts of a noncustodial parent from any individual, financial entity, business or corporation, as defined in ~~the Code~~ State law. The information requested or a statement that no information is available must be sent to OCSE within 30 days of the receipt of the request. A business or financial entity shall be liable for civil penalties of up to \$100 for each day after the 30-day period in which it fails to provide the information. Any business, financial entity, officer, agent, or employee of such entity participating in good faith and providing information requested shall be immune from liability and suit for damages that might otherwise result from the release of the information to OCSE. **(45 C.F.R. § 303.3; Ark. Code Ann. § 9-14-208)**

Locate Efforts

Location is defined as obtaining information concerning the physical whereabouts and ~~verification of~~ verifying information regarding the address, employment, and financial ability of ~~the a NCP noncustodial parent~~ to provide support.

The ~~investigator~~ caseworker is required to access all appropriate locate resources, including FPLS, and evaluate the responses within 75 calendar days of determining that location is necessary. Repeated attempts must be made quarterly or immediately upon receipt of new information. These attempts may be automated but must include accessing Employment Security Department screens. FPLS must be accessed at least annually. ~~(See ACTS Users Manual for information regarding automated FPLS.)~~ Within 20 days of determining the NCP noncustodial parent is in another state, the caseworker must send a Locate Data Sheet (~~OCSE-LOC-01~~) to the Central Registry in that state. Location efforts outlined above must continue for a three-year period, provided there is sufficient information for automated locate activities. If after three years the noncustodial parent has not been located, the case may be closed after proper notice to the custodial parent.

If sufficient information for automated locate is not available, the case may be closed after one year. At the end of one year, if ~~at the end of that time~~ location attempts have been unsuccessful, the case ~~can~~ may be closed upon ~~proper~~ notice to the custodian. The case must be reopened at no charge ~~when~~ if the custodian or initiating state can provide new information.

NEW HIRE REGISTRY

~~The Arkansas New Hire Registry is operated by the Employment Security Division. The~~ Employment Security Division operates the Arkansas New Hire Registry. OCSE will interface with the new hire registry data file for the purpose of obtaining employment data on NCP's noncustodial parents in the OCSE caseload. Caseworkers will receive an electronic notice when a match occurs. Information gained from the match will be used for the sole purpose of establishing or enforcing child support obligations. When a match occurs for an obligated case, a withholding notice to the new employer ~~will~~ must be sent within two business days.

(Public Law 104-193)

SPECIFIC REQUESTS FOR A CREDIT REPORT

If requested by the head of a state or local child support enforcement agency or its agent, the Consumer Reporting Agency must provide a copy of a credit report if the report is needed to establish an individual's ability to pay child support or to determine the appropriate level of payments. The reports ~~will be~~ are kept confidential and used for that purpose only. The report ~~cannot~~ may not be used for any civil, administrative or criminal proceeding, ~~or for any other purpose or any purpose other than determining the ability to pay or appropriate amount of child support payments.~~ OCSE must ~~give~~ notify the ~~NCP noncustodial parent~~ in writing, by certified mail at least 10 days prior to notice before requesting a Consumer Report. ~~Form (OCSE CREDIT 01) A Notice of Intent to Request a Credit Report Form (OCSE Credit 01) is approved for this purpose.~~ (Public Law 104-193)

INTERSTATE REFERRALS

Arkansas As The Initiating State

If paternity/support has not been established, the local office should attempt use ~~of the~~ long arm ~~statute~~ jurisdiction as outlined in Chapter 4, Long Arm Paternity, to establish paternity/support whenever appropriate. Within 20 days of locating the ~~NCP noncustodial parent~~ in another state, interstate cases must be referred to ~~an~~ the appropriate IV-D state child support enforcement agency if use of the long arm statute jurisdiction is not possible does not exist.

The case must contain accurate and sufficient information to proceed with the case. A Child Support Enforcement Transmittal must be included.

When ~~a~~ the responding state requests information, the OCSE office must provide that information within 30 calendar days or must notify the responding state when the information can be provided.

When new information has been verified, the responding state must be notified within 10 working days of the receipt of the information.

A status request must be sent to the responding state on all nonpaying cases every ~~90~~ 30 calendar days until the payments have been obligated or restored.
(45 C.F.R. § 303.7(b))

Arkansas As The Responding State

~~Interstate cases will be referred to the Interstate Unit or the appropriate county by the Central Registry. The Central Registry will refer interstate cases to the appropriate caseworker. The Interstate Unit or local office caseworker must provide location services if the information provided is inadequate or at the request of the initiating state within 75 calendar days of the referral of the case. (45 C.F.R. § 303.7(c)(4))~~

Within 10 working days of receipt of an interstate IV-D case from an the initiating state, the Central Registry must ensure that documentation submitted with the case has been reviewed to determine completeness, forward the case for necessary action either to the State Parent Locate Service for location service or to the appropriate agency for processing, acknowledge receipt of the case, and ensure that any missing documentation has been requested from the initiating state. The Central Registry must respond to inquiries from other states within five working days of receipt of the request for a case status review of cases that have not yet been forwarded to the local office. (45 C.F.R. § 303.7(c)(6))

If the NCP noncustodial parent is located in ~~another~~ a county other than where initially located and there is no Arkansas court order, the case must be transferred to the appropriate county within 10 working days of verifying the NCP's noncustodial parent's location. If an Arkansas court order already exists, the case will be submitted to the county that issued the order. New information acquired while working the case must be transferred to the appropriate county within 10 working days of verification.

If the NCP noncustodial parent is located in another state, Arkansas OCSE must notify the initiating state within 10 working days of the verification of the NCP's noncustodial parent's location. Arkansas OCSE, as the responding state agency, must return the form and documentation, including the new location, to the initiating state. Or, if directed by the initiating state, Arkansas OCSE must forward the form and documentation to the Central Registry in the state where the NCP noncustodial parent has been located and notify the ~~central registry~~ initiating state where the case has been sent.

~~The Interstate Unit or local office~~ The caseworker will provide all services necessary to locate NCP's noncustodial parents, establish paternity and child/medical support orders, and enforce existing child/medical support orders. ~~Arkansas will extend full faith and credit to all valid Court Orders and Affidavits Acknowledging Paternity issued in another state. OCSE will recognize and extend full faith and credit to court orders and affidavits acknowledging paternity issued in another state unless and until a court of competent jurisdiction directs otherwise. The Interstate Unit or the local office~~ The caseworker will employ all legal remedies available under State law and OCSE policy to ensure compliance in interstate cases. ~~The Interstate Unit or local office caseworker~~ must provide location services if the information provided is inadequate or at the request of the initiating state within 75 calendar days of the referral of the case.
(45 C.F.R. § 303.7(c)(4)) (Ark. Code Ann. § 9-17-313)

Arkansas OCSE, as the responding state agency, must pay the costs of processing interstate cases, except that the initiating state must pay for costs of paternity testing in actions to establish paternity. If paternity is established in ~~the responding state Arkansas, the state must an~~ attempt to obtain a judgment for costs of paternity testing from the putative father will be made. If costs

are recovered, ~~the responding state~~ Arkansas must reimburse the initiating state. ~~Arkansas as the responding state may recover its costs of providing services in interstate non-TEA cases in the same manner as intrastate non-TEA cases. Also, the responding state must identify any fees or costs deducted from support payments when forwarding payments to the initiating state.~~
(45 C.F.R. § 303.7(d)(2)(3))

Arkansas OCSE will recover the cost of providing services in interstate non-TEA cases. Any fees deducted will be identified when payments are forwarded to the initiating state. However, the court may assess fees and costs against the noncustodial parent. Fees, cost, or expenses may not be assessed against the custodian or the support enforcement agency of either the initiating or the responding state except as provided by other law. (Ark. Code Ann. §§ 9-14-215, 9-17-313)

If an order of support exists in any other state and the order cannot be enforced without court action, the caseworker will forward the case to the legal section so the existing order can be registered.

As the responding state, Arkansas OCSE is not responsible for direct contact with the custodial parent in the initiating state. However, it is the caseworker's responsibility to keep the initiating state informed of significant actions taken in the case.

Chapter 4 ESTABLISHMENT

ESTABLISHMENT OF PATERNITY BY ACKNOWLEDGMENT

States must have laws and procedures for a simple ~~civil~~ administrative process for acknowledging paternity. States must ensure that ~~they explain~~ the rights and responsibilities of acknowledging paternity are explained, that ~~they safeguard~~ due process is safeguarded, and ~~provide that~~ opportunities at the hospital to acknowledge paternity when the baby is born are provided, in addition to providing opportunities outside the hospital. If paternity has not been established, ~~The IV-D Agency~~ OCSE is required to provide an alleged father the opportunity to acknowledge paternity in all cases referred to the agency or in connection with an application for child support services. Paternity must be established before or in connection with any other action to establish child/medical support. ~~The IV-D agency~~ OCSE is not required to take additional action to establish paternity if, under state law, the acknowledgment itself establishes paternity.

(45 C.F.R. §§ 302.70(a)(5)(iii), 303.5(a))

~~AFFIDAVIT ACKNOWLEDGING PATERNITY~~ Hospital-Based Paternity Acknowledgement Program

The ~~Affidavit Acknowledging Paternity, OCSE PAT 10C,~~ Acknowledgement of Paternity form is available in all birthing centers in the State, Arkansas Dept. of Health (DOH), Vital Records, and local child support offices. ~~The Dept. of Health DOH~~ offers voluntary paternity establishment services in all of its offices throughout the state in coordination with OCSE offices. ~~The Dept. of Health coordinates such services with OCSE. The Affidavit Acknowledging Paternity may be completed for any child of any age if the parents were not married at the time of the child's birth. Voluntary acknowledgments must be signed by both parents, and the parent's signatures must be authenticated by a notary.~~ OCSE must provide to all public and private birthing hospitals in the State written materials about paternity establishment, forms necessary to voluntarily acknowledge paternity, and copies of a written description of the rights and responsibilities of acknowledging paternity. OCSE must also provide training, guidance, and written instructions regarding voluntary acknowledgment of paternity as necessary to operate the hospital-based program and must assess each birthing hospital's program on an annual basis. (45 C.F.R. § 303.5(g))

The OCSE ~~Director~~ Administrator and the hospital birthing center, certified nurse practitioner, or licensed midwives shall enter into cooperative agreements for compensation at a rate not to exceed \$20 for each Acknowledgment of Paternity forwarded by the hospital, birthing center, certified nurse practitioner, or licensed midwife to OCSE.

~~If the Affidavit is completed within 10 days after the birth of the child, the father's name will appear on the birth certificate. If the mother is married to someone other than the biological father, the mother, husband/ex-husband and the biological father may use the Affidavit to establish paternity of the child and the biological father's name will appear on the birth certificate. If the Affidavit is completed after the birth certificate is filed with Vital Records, the Custodian can take the yellow copy to Vital Records with a fee of \$10.00 and receive an amended birth certificate showing the father's name. There is a space on the Affidavit that allows for the change of the child's last name. A court order to change the child's last name is required to amend a birth certificate that has already been filed.~~

Effect Of Signing The ~~Affidavit Acknowledging~~ Acknowledgement of Paternity

~~Voluntary acknowledgments must be signed by both parents, A valid Acknowledgement of Paternity must contain the signatures of both parents and a notary must authenticate the parents' signatures. A man who signs the Affidavit after April 10, 1995 is the father of the child for all intents and purposes if he and the mother execute an acknowledgment of paternity of the child or similar acknowledgment during the child's minority; The Affidavit forms the basis for establishment and enforcement of a child support or visitation order without further proceeding to establish paternity. For children born in Arkansas after April 10, 1995, an affidavit, properly executed during the child's minority, conclusively establishes the man as the father of the child, subject to modification pursuant to Ark. Code Ann. § 9-10-115.~~

The Affidavit forms the basis for establishment and enforcement of a child support or visitation order without a further proceeding to establish paternity. If the Affidavit is completed within 10 days after the birth of the child, the father's name will appear on the birth certificate. If the Affidavit is completed after 10 days, the custodian may request an amended birth certificate showing the father's name. If the mother is married to someone other than the biological father at the time of birth, the mother, husband/ex-husband and the biological father may use the Affidavit to establish paternity of the child and the biological father's name will appear on the birth certificate if completed within 10 days of the child's birth. If the Affidavit is completed later than 10 days after the birth and the husband's name appears on the birth certificate, a court order must be entered to allow the name of the father to be corrected. There is a space on the Affidavit that allows for change of the child's last name. The child's last name can be changed by completing an Acknowledgement of Paternity.

Rescinding The Affidavit Acknowledging Paternity

~~Any signatory person who has signed an Acknowledgement of Paternity may rescind the voluntary acknowledgment of paternity document within the earlier of 60 calendar days from the date of signing or prior to the date that an administrative or judicial proceeding, including a proceeding to establish a support order, is held relating to the child and the person executing the voluntary acknowledgment of paternity. Forms for this purpose are available at Department of Health Division of Vital Records. Beyond the 60 calendar day period, a motion to set aside a paternity establishment pursuant to a voluntary acknowledgment of paternity may only must be~~

based on ~~an~~ allegations of whether that the acknowledgment was obtained by fraud, duress, or material mistake of fact. The court may, after making such finding, direct the mother, the child, and the presumed father to submit to scientific testing for paternity. The burden of proof shall be upon the person challenging the establishment of paternity.

The duty to pay child support and other legal obligations shall not be suspended while the motion is pending, except for good cause shown. The specific basis supporting the good cause findings shall be recited in the court's order. ~~In no event shall the adjudication or voluntary acknowledgment of paternity be modified later than three (3) years after entry of the order or execution of the Affidavit Acknowledging Paternity.~~
(Ark. Code Ann. §§ 9-10-120, 9-10-115)

Disestablishment of Paternity

The noncustodial parent may petition the court asking for paternity testing if paternity and support were established without testing. If the court determines, based upon the results of scientific testing, that the adjudicated or presumed father is not the biological father, the court shall set aside a previous finding or establishment of paternity and relieve the adjudicated or presumed father of any future obligation of support as of the filing date of the motion for modification.

If the name of the adjudicated or presumed father appears on the birth certificate of the child, the court shall issue an order requiring the birth certificate be amended to delete the name of the father. (Ark. Code Ann. §§ 9-10-115, 9-10-120, 20-18-401, 20-18-408, 20-18-409)

ADMINISTRATIVE ~~ESTABLISHMENT OF~~ PATERNITY TESTING

If the parentage of a child has not been established, OCSE shall send a notice to the ~~putative alleged father, or mother, as appropriate,~~ stating it is alleged that he ~~or she~~ is a biological parent of the child. The notice shall inform the ~~parties~~ party that ~~the~~ he, the alleged father, and the mother of the child may sign an affidavit acknowledging paternity, and that ~~any~~ either party may request scientifically-accepted paternity testing to assist in determining the ~~identities~~ identity of the child's ~~parents~~ father.

In all ~~cases brought pursuant to Title IV-D of the Social Security Act~~ OCSE cases where paternity is an issue, upon a sworn statement by the mother or ~~putative alleged~~ father, alleging or denying paternity, OCSE shall issue an administrative order for paternity testing that will require the mother, ~~putative alleged~~ father, and minor child to submit themselves for paternity testing. OCSE shall cause a copy of the administrative order for paternity testing to be served by certified mail on the mother and ~~putative alleged~~ father.

~~Arkansas Code allows any party to submit an affidavit denying paternity and setting forth facts establishing a reasonable possibility of the nonexistence of sexual contact between the mother~~

~~and putative alleged father. The parties may~~ Any party to an administrative order for paternity testing may object to the order and request an administrative hearing within 20 days of receiving the order. The purpose of the administrative hearing shall be limited to whether the paternity testing under the administrative order should be conducted.

OCSE shall initially pay the costs of administrative paternity testing. ~~but~~ Those costs shall be assessed against the ~~putative alleged~~ father if paternity is established, ~~or against the mother in non-TEA cases~~ If the ~~putative alleged~~ father is excluded as the biological father, ~~the mother is responsible for the cost of testing (does not apply in TEA or Medicaid cases).~~ Recovery of the costs of paternity testing by OCSE through all available processes shall be initiated, including income withholding when appropriate. **(Ark. Code Ann. § 9-10-108)**

Any party who objects to the results of such paternity testing may request additional testing upon proper notice and advance payment for retesting. OCSE ~~shall~~ will assist the objecting party in obtaining such additional testing, if requested.

If the results of paternity testing establishes a 95% or more probability of inclusion that the ~~putative alleged~~ father is the biological father of the child, then OCSE ~~shall~~ may file a complaint for paternity and child support in the ~~chancery circuit court or juvenile division thereof~~, as appropriate.

~~If paternity is disputed and a judicial or administrative determination of paternity is pending, and if there is clear and convincing genetic evidence of paternity, upon motion by a party, chancery court shall issue a temporary child support order in accordance with the guidelines for child support and the Family Support Chart. (ACA 9-10-103)~~

SUIT TO DETERMINE PATERNITY

~~Complaints for paternity establishment may be filed by a biological mother, an putative father, a person for whom paternity is not presumed or established by court order, or the Office of Child Support Enforcement. When the case is ready for trial, or the accused denies being the father of the child, the chancery court or chancellor shall hear the evidence and decide the case and other issues at law. (ACA 9-10-115)~~

OCSE is authorized by state law to initiate a court action to establish paternity.
(Ark. Code Ann. § 9-10-104)

OCSE ~~need~~ is not required to attempt to establish paternity in any case involving incest, forcible rape, or ~~in~~ any case in which a legal proceeding for adoption is pending, if, in the opinion of an OCSE Field Manager, it would not be in the best interest of the child. ~~to establish paternity.~~

OCSE will not initiate court action to establish paternity or support while the alleged father is incarcerated. The caseworker will contact the alleged father and provide an opportunity for the alleged father to voluntarily acknowledge paternity by signing the Affidavit if he so desires.

However, no other action to establish paternity or support may proceed while the alleged father is incarcerated.

Long-Arm Paternity

Arkansas courts may ~~establish~~ exercise jurisdiction over an ~~putative~~ alleged father who resides in another state if one or more of the following circumstances exist:

- The individual is personally served with a summons within ~~the State~~ Arkansas;
- The individual submits to the jurisdiction of this state ~~by consent~~ by entering a general appearance or by filing a responsive document having the effect of waiving any consent to personal jurisdiction;
- The individual resided with the child in ~~this State~~ Arkansas;
- The individual resided in ~~this State~~ Arkansas and provided prenatal expenses or support for the child;
- The child resides in ~~this state~~ Arkansas because of the acts or directives of the individual;
- The individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse;
- The individual asserted parentage in the Putative Father Registry maintained in ~~this state~~ Arkansas by the Department of Health; or
- There is any other basis consistent with the constitutions of ~~this State~~ Arkansas and the United States for the exercise of personal jurisdiction.

The Long-Arm provision should be used before any other interstate action when it is confirmed that the ~~putative~~ alleged father lives in another state and one of the ~~previous~~ above circumstances exists.

When the above conditions exist, action to establish paternity will be filed in the child's county of residence. ~~Service of process will be achieved pursuant to Rule 4 of the Rules of Civil Procedure.~~

Note: ~~Arkansas code Annotated 9-17-201 is part of UIFSA. UIFSA Uniform Interstate Family Support Act~~ recognizes that an intrastate case is preferable to an interstate case. Therefore, only pursue interstate remedies when all avenues for intrastate relief have been exhausted.

(Ark. Code Ann. §§ 9-17-201, 9-14-101)

~~Negotiation And Agreement~~

~~OCSE may enter into a tentative agreement with the NCP that includes a signed, notarized Affidavit Acknowledging Paternity, agreement to pay child support, medical support, and Health~~

Care coverage for the child(ren). Non-TEA or former TEA custodians have the option of rejecting medical services. The agreement must be in a legal format and approved by the attorney. It will become a permanent part of the court record and the OCSE case file. The NCP must be advised of his right to a court hearing, and judicial determination of the paternity issue, and the amount of support.

The most recent Family Support Chart must be used to determine the amount of support. Deviation from the chart is not authorized under any circumstance.

Establishing Paternity When The Mother Is Deceased

Arkansas Code law authorizes genetic testing to establish paternity if ~~one of the biological parents~~ mother is deceased or unavailable. A relative of the deceased or unavailable parent who is willing to submit to genetic testing may be included in the testing process. The testing lab will advise OCSE regarding the participation of the relative. (Ark. Code Ann. § 9-10-108)

OCSE will open a case and attempt to establish paternity and a support order in the case if the mother is the deceased parent and the child is living with a caretaker relative such as an aunt or grandmother. If the alleged father is deceased, OCSE will not accept referrals or an application to establish paternity.

TIME FRAMES FOR ESTABLISHING PATERNITY/SUPPORT

Federal regulations require states to implement an expedited process for paternity establishment. OCSE is required to establish a child/medical support order and, if necessary, establish paternity within 90 calendar days of locating the alleged father, or complete the service of process necessary to commence proceedings to establish a support order. Unsuccessful attempts to serve process must be documented.

Federal law mandates that states must meet a paternity establishment standard of 90%. States with a paternity establishment percentage between 90% and 75% must increase their percentage rate 2% per year over the rate of the preceding fiscal year. States with a paternity establishment percentage between 75% and 50% must increase their percentage rate 3% per year over the rate of the preceding fiscal year. States with a paternity establishment percentage between 50% and 45% must increase their paternity establishment percentage rate 4% per year over the rate of the preceding fiscal year. States with a paternity establishment percentage between 45% and 40% must increase their paternity establishment percentage rate 5% per year over the rate of the preceding fiscal year. States with a paternity establishment rate of 40% or below must increase their paternity establishment percentage rate 6% per year over the rate of the preceding fiscal year. (45 CFR 303.101; P.L. 104-193)

PETITION FOR SUPPORT

OCSE will initiate actions to establish paternity (when necessary) and support in the appropriate Circuit Court on behalf of customers of OCSE. ~~Chancery courts shall have exclusive jurisdiction in all civil cases and matters relating to the support of a minor child or support owed to a person 18 or older which accrued during that person's minority. Any parent, person or agency who has having physical custody of a minor, or a minor child by and through his guardian or next friend, or OCSE, when the physical custodian receives assistance or has contracted with OCSE for support services, may file a petition to require the NCP- noncustodial parent or parents to provide support. Any person 18 or above to whom support was owed during his or her minority may file a petition for a judgment against the nonsupporting parent or parents. If the NCP noncustodial parent is incarcerated, an order for support will be only sought after the individual is has been released. However, the issue of paternity can be resolved by agreement or by executing an Affidavit Acknowledging Paternity prior to the NCP's release. The most recent Family Support Chart must be used to determine the amount of support.~~
(Ark. Code Ann. §§ 9-14-105(a), 9-14-105(b)(4)(e))

The Arkansas Supreme Court has held that an order for child support payments may not be based upon income from Supplemental Security Income benefits.
(Davis v Child Support Enforcement, 341 Ark. 349, (2000).)

Proof Of Income

OCSE will include in all petitions for an order for child support that the custodial parent be entitled to request proof of income annually, in writing by certified mail from the noncustodial parent and that the noncustodial parent must respond by certified mail to the request within 15 calendar days of receipt. If new income information is provided by the custodial or the noncustodial parent, OCSE will take legal action to modify the order, if appropriate.

NOTE: For more information on proof of income, see Ark. Code Ann. § 9-14-107.

BANKRUPTCY

Paternity and child support may be established if the noncustodial parent has filed bankruptcy without seeking relief from the automatic stay. Enforcement activity on any current child support or child support arrears **included** in the bankruptcy plan must cease pending receipt of **relief from stay** from the bankruptcy court.

MEDICAL SUPPORT

Securing Medical Support Information For Medicaid

Individuals must be informed that medical support ~~services are available~~ will be addressed in every court order. The required information above listed below must be secured and provided to the Medicaid agency if the individual is a Medicaid applicant or recipient or with the consent of the individual who is not receiving or applying for Medicaid benefits. ~~Providing information is automatically provided to the Medicaid agency is automatic~~ when insurance information is keyed to MINS properly entered into the OCSE data system.

(45 C.F.R. § 303.30)

~~The IV-D agency~~ OCSE is required by federal regulation to ~~secure~~ obtain and provide the following information to the Medicaid Agency if such information is available or can be obtained in an ~~IV-D~~ OCSE case and if the information was not provided to Medicaid by ~~IV-A or IV-E~~ TEA or Foster Care agencies:

- TEA case number, title IV-E foster care case number, Medicaid number or the individual recipient's social security number;
- Name of the ~~NCP~~ noncustodial parent;
- Social security number of the ~~NCP~~ noncustodial parent;
- Name and social security number of child(ren);
- Home address of the ~~NCP~~ noncustodial parent;
- Name and address of the ~~NCP~~ noncustodial parent 's place of employment;
- Whether the ~~NCP~~ noncustodial parent has a health insurance policy and, if so, the policy name(s) and number(s) and ~~the name(s) of the person(s)~~ verification that the children are covered.

Federal law protects the individual's right to privacy with regard to their medical histories and medical insurance coverage (45 CFR 164.501). For the purposes of preparing for court, OCSE can ask employers if medical support is available to a noncustodial parent. OCSE can also ask employers if children listed in the order being enforced are covered, but not about other children the employee may have covered. Additionally, OCSE cannot ask for medical support information unless the noncustodial parent has been determined to be the legal father of the children and is ordered to provide medical support.

Securing Medical Support

~~In all cases where there is an assignment of rights, OCSE shall pursue establishment and/or enforcement of a medical support order requiring the NCP to provide a health insurance policy or pay a periodic or lump sum payment for medical support. Every court order must address the medical insurance needs of the child unless the custodian and children have satisfactory health care insurance other than Medicaid. Non-TEA custodians may notify OCSE in writing not to pursue medical support if they have not signed an assignment of medical support rights. OCSE~~

~~must will~~ petition the court to establish a medical support order in all new or modified support orders unless the custodian and children have satisfactory health insurance benefits other than Medicaid. This is required whether or not health insurance is actually available to the NCP at a reasonable cost or modification of current coverage to include the child(ren) in question is immediately possible. (45 C.F.R. § 303.30) OCSE will determine the availability of health insurance for both parents through interview and verification of employer records and present that information to the court so that a determination can be made as to which parent is in the best position to provide coverage. Each order will address who should provide coverage and whether the other parent should contribute to the cost of the premium, or that neither parent has health care coverage available.

~~OCSE must identify cases through an interview with parents and verification of employee records where there is a high potential for obtaining medical support based on the following criteria:~~

- ~~• Cases with income withholding in effect.~~
- ~~• Cases in which the NCP employer is known to offer employee health coverage.~~
- ~~• Cases in which the NCP has changed employment.~~
- ~~• Cases in which the NCP is a member of a union or other trade or professional organization that might have group insurance available such as carpenters, electricians, plumbers, attorneys, doctors, or dentists.~~
- ~~• Evidence that health insurance may be available to the NCP at a reasonable cost.~~
- ~~• There are sufficient facts, as defined by State law, regulation, procedure, or other directives, to warrant modification of the existing support order to include health insurance coverage for dependant child(ren). Health insurance is considered reasonable in cost if it is employment related or other group health insurance, regardless of service delivery mechanism.~~

OCSE ~~must~~ will provide information to the custodian and the Medicaid agency (if the custodian and/or child(ren) are receiving Medicaid benefits) regarding the health insurance policy including, but not limited to, the name, address and phone number of the health insurance organization, benefits covered under the plan, the policy number, claim forms, membership card and any other information needed to file a claim.

Arkansas Code authorizes certain protections for children to ensure they are afforded adequate health care coverage:

- The child cannot be denied coverage because he or she is receiving Medicaid.
- The child cannot be denied coverage because he or she lives outside the service area.
- The minor child shall be enrolled immediately in the ~~NCP~~ noncustodial parent's health care plan without regard to enrollment season restrictions.
- Except for nonpayment of the premium, health care coverage cannot be canceled unless the insurer has received notice in writing that another insurance plan covers the child, or unless the court order is no longer in effect.

- Coverage cannot be denied because the child was born out-of-wedlock, is not claimed as a dependant on the parent's federal income tax return, or does not reside with the parent purchasing the policy.

(Ark. Code Ann. § 9-14-503)

EXPEDITED PROCESS FOR ESTABLISHMENT CASES

Federal Regulations and Arkansas law require that action to establish child support obligations be taken within certain time frames for completing Judicial or Administrative actions. OCSE must, within 90 calendar days of locating the alleged father or NCP noncustodial parent and, regardless of whether paternity has been established, establish an order for support, or complete service of process necessary to commence proceedings or to document unsuccessful attempts to serve process despite diligent efforts to obtain service of process. If the court dismisses a petition for a support order without prejudice, OCSE must, at the time of dismissal, examine the reasons for dismissal and determine when it would be appropriate to seek an order in the future.

~~In IV-D cases needing support order establishment, Regardless of whether or not paternity has been established, action to establish support orders must be completed from the date of service of process to the time of disposition within the following time frames: 75% in six months, and 90% in twelve months. Additionally, in all cases in which an order of support needs to be established and regardless of whether or not paternity has been established, action to obtain the order of support must be completed within six months of the date of service in 75% of such cases and within twelve months from the date of service in 90% of such cases.~~

If long-arm jurisdiction rules to establish paternity and support are used, credit will be given as though the order was established within six months if it was completed within twelve months of service of process. Paternity establishment and support order establishment should be completed as one action when appropriate.

(Ark. Code Ann. § 9-14-204; 45 C.F.R. § 303.4)

SERVICE OF PROCESS

Guidelines For Diligent Efforts To Obtain Service Of Process

~~There are three acceptable methods of service of summons and contempt citations:~~

- ~~• Service by Sheriff,~~
- ~~• Service by Process Server, or~~

- ~~Service by Restricted Delivery Mail.~~

~~The attorneys~~ Attorneys representing OCSE are responsible for ~~shall~~ selecting the appropriate method of service ~~based on their professional judgment.~~ The method ~~shall~~ must be selected and action taken to obtain service within three working days of the date on which the Summons or Contempt Citation ~~being~~ was issued.

~~If service by Sheriff or Process Server has been selected, the Summons and Complaint or the Citation shall be mailed to the appropriate Sheriff or Process Server within three working days of issuance. If service by Restricted Delivery Mail has been selected, service shall be mailed within three working days of issuance.~~

In the case of the use of Long Arm Jurisdiction, if service by an out-of-state Sheriff or Process Server has been selected, and advance payment for service of process is required, the Summons and Complaint or the Citation ~~shall~~ must be mailed to the appropriate Sheriff or Process Server within three working days of receipt of an advance payment check from OCSE. Request for advance payment of fees ~~shall~~ must be made within two working days of the determination that advance payment is required. ~~case being referred to legal.~~
(Rule 4 of Arkansas Rules of Civil Procedure)

Monitoring The Request For Service Of Process ~~To Ensure Diligent Service~~

Service by Sheriff or Process Server

- If ~~no notification~~ proof of service has not been ~~received~~ returned within 14 calendar days of mailing the summons or citation with a request for service, the sheriff or process server ~~shall~~ must be contacted to determine whether service has been obtained and, if not, whether the address provided has been determined to be inaccurate.
- If the address is inaccurate the attorney ~~shall~~ must immediately refer the case to the ~~investigator~~ caseworker for relocate. The ~~investigator~~ caseworker shall attempt to relocate the ~~NCP~~ noncustodial parent and provide the attorney with a new address for service of process.
- If service is still being attempted using the address provided, follow up shall be made again 14 calendar days afterwards.

Service by Restricted Delivery Mail

- If the ~~postal~~ return receipt is not received within 30 calendar days, it shall be assumed that the service is unsuccessful, and request for service ~~shall~~ must be sent to the sheriff or process server within 35 calendar days after the restricted delivery was mailed.

- If the restricted delivery service is returned unclaimed, but with the appearance that the address is still good, request for service shall be sent to the sheriff or process server within two working days.
- If the restricted delivery service is returned marked “Refused” by the Post Office, it shall be re-mailed by first class mail within two working days of the return and according to applicable Rules of Civil Procedure.
- If the restricted delivery service is returned with an indication that the address is no longer good, the file shall be referred to the ~~investigator~~ caseworker for relocate ~~within two working days~~ immediately.
- ~~If the restricted delivery service of a contempt citation is returned unclaimed and the court will honor service by first class mail, the attorney shall exercise his best professional judgment in determining whether to mail by first class mail or to attempt service by Sheriff or Process server. Whichever is selected, action shall be taken within two working days.~~

All efforts of service of process must be well documented in the case file and ACTS ARCSIS note screens.

PATERNITY TESTING AFTER THE SUPPORT ORDER IS ENTERED

While Ark. Code Ann. § 9-10-115(e)(1)(A) allows a noncustodial parent who has not had a genetic test previously to have one paternity test at anytime during the time in which he is ordered to pay support, OCSE will not initiate this action on behalf of the noncustodial parent. OCSE will not suspend the collection of support while any action pursuant to this code section is pending, unless otherwise ordered by the court. (Ark. Code Ann. § 9-10-115)

Chapter 5 ENFORCEMENT

ENFORCEMENT OF SUPPORT OBLIGATIONS

OCSE will ~~aggressively~~ pursue collection of child support obligations and utilize all administrative and judicial remedies available under State law. Once an order is established, the noncustodial parent is responsible for making payments by the date set in the order. Enforcement of support obligations will be initiated on the date the noncustodial parent fails to make payments in an amount equal to one-month support. (45 C.F.R. § 303.6)

Upon completion of legal activity necessary to establish an obligation for support and the amount of the support obligation, the case will be returned to the ~~investigator~~ caseworker, who will be responsible for monitoring payments made by the ~~NCP noncustodial parent~~ to ensure that ~~the NCP~~ he/she complies with the support obligation. A child support obligation commences on the date specified in the order. If no start date is set out in the order, the first payment falls due on the date the order was filed on record.

Enforcement through income withholding, intercept of unemployment benefits or workers' compensation benefits, income tax intercept, additional payments ordered to be paid on the child support arrearage or judgment, contempt proceedings, or any other means of collection shall be available for the collection of a child support arrearage or judgment until such is satisfied.

~~The OCSE Administrator is authorized to enter into cooperative agreements with county judges, court clerks, and prosecuting attorneys concerning the establishment, enforcement, collection, monitoring, and distribution of support obligations.~~ In counties where the court grants at least 2,500 divorces each year, the OCSE Administrator is ~~further~~ authorized to appoint child support officers to assist in the service of civil and criminal process and to enforce child support orders in this state. Such officers shall be duly certified law enforcement officers and ~~shall have the same power to execute, serve, and return all lawful warrants including warrants of arrest issued by the State of Arkansas or any political subdivision thereof~~ and shall be appointed by the appropriate courts to service process.
(Ark. Code Ann. § 9-14-206)

Administrative Remedies

~~Investigators~~ Caseworkers must use all available administrative methods to enforce orders ~~and as the remedy of first choice seek contempt as a last resort.~~ If administrative remedies have failed or are unavailable, court action to enforce orders should then be used as a last resort.

Administrative Subpoenas

The Administrator or his designee is authorized to issue an administrative subpoena for any financial or other information needed to establish, modify, or enforce a child support order to any individual or organization reasonably believed to have information on the financial resources of a parent or alleged father. **(Public Law 104-193; Ark. Code Ann. § 9-14-207)**

A court may compel compliance with an administrative subpoena, impose penalties of up to \$100 for each day after 60 days of receipt of a request, and may award attorney fees and costs to OCSE upon proof that an individual or organization failed to comply with the subpoena without cause.

Subpoenas ~~shall be~~ are served in the manner provided by law. OCSE ~~shall~~ will make and keep a record of all subpoenas issued. **(Ark. Code Ann. § 9-14-208(e))**

Delinquency Notices

OCSE may send a delinquency notice to the obligor when the unpaid support equals 30 days obligation.

Interest

OCSE or the obligee may request in writing, prior to the entry of a judgment on arrears, that interest not accrue on past due support. (Ark. Code Ann. § 9-14-233(a))

If interest is reduced to a judgment by the court or the amount of interest owed is received as a sum certain from another state, OCSE will include the sum certain amount as child support debt owed and collect by all enforcement means available.

In a case where no sum certain is designated by the court and the question of interest arises, then OCSE will advise the custodial parent that he/she should obtain a certified calculation of the total amount of interest owed from a licensed accountant or other reliable financial source. The calculation must be accompanied by a professional opinion on official letterhead that states the calculation is reasonable based on the information provided for the calculation, and is calculated in accordance with the State law pertaining to child support interest. Documentation supporting the calculation must be attached in order for a worker to include interest amount as a child support debt.

Income Withholding

Income withholding must always be used as an initial enforcement effort if the NCP noncustodial parent is employed or if there is another source of periodic income subject to ~~income~~ withholding.

~~It is the policy of OCSE to~~ will include a provision for income withholding in every child

support order. In those cases where income withholding is not in effect, OCSE ~~shall~~ will take all necessary and proper actions to implement income withholding when the arrears are equal to or exceed 30 days obligation. Income withholding has priority over any other legal process under State law against the same wages.

The law requires that all support orders or decrees entered after August 1, 1985, include a provision directing the employer to deduct sufficient amounts to meet both the periodic support obligations plus an additional ~~10% of the periodic~~ payment to apply against any accrued arrearage. ~~The court may order an amount to be applied to arrearage that is more than 10% of the obligated amount.~~ The amount to be applied against the arrearage shall be the amount stated in the order expressed as a dollar amount or percentage, or 20% of the periodic payment if not specific by the order. ~~With the NCP's noncustodial parent's consent or upon good cause shown to the court, the order of income withholding may take effect immediately.~~ The order of income withholding will be effective immediately unless there is a finding of good cause not to begin immediate income withholding or the order reflects the parties' agreement to other arrangements.

The income withholding law applies to existing orders as well as those entered after the ~~legislation became effective.~~ enactment of applicable statutes.
(Ark. Code Ann. § 9-14-208; 45 C.F.R. § 303.100)

Initiated Income Withholding

Arkansas Code provides for payment of child support obligations by mandatory initiated income withholding. Once a child support obligation is established under a court order authorizing income withholding, no further court action is required to implement the procedure to collect support from the NCP's noncustodial parent's wages or other income. Initiated income withholding must take effect when the amount of the delinquency is equal to the total court-ordered support payable for 30 calendar days and upon proper notice to the noncustodial parent. The provision will also apply when partial payments have been made but total arrears are equal to one month's obligation.

(Ark. Code Ann. § 9-14-208(a)(1))

Immediate Income Withholding

~~The investigator should be aware that Orders, Judgments, and Decrees entered in non-IV-D cases (private cases) prior to January 1, 1994, may not contain a provision for immediate wage withholding. If not, wage withholding can only be implemented upon proper notice to the NCP after he has accumulated an arrearage equal to 30 days support.~~

Orders, Judgements, and Decrees entered in ~~IV-D~~ OCSE cases after October 1, 1989, should contain a provision for immediate income withholding. There are two exceptions: (1) The court finds that there is good cause not to implement withholding; (2) The parties enter into an alternative agreement regarding withholding which is incorporated into the court order. However, if the NCP noncustodial parent accrues arrearages, income withholding ~~must~~ may be ~~implemented~~ initiated without further court action as outlined in the immediately preceding section.

Arkansas Code, effective October 1, 1989, ~~provides for~~ requires immediate income withholding for payments of child support ~~on all IV-D cases and all cases effective January 1, 1994. The Child Support Unit OCSE, an Attorney representing the custodian, or the custodian may initiate the implementation process through the appropriate court clerk. An additional amount equal to 10% 20%~~ of the periodic payment must be deducted to apply against any accrued arrearage unless the court orders a specific amount or a set percentage to be paid on arrears.

OCSE must issue a wage withholding notice to the employer within two business days of the date the support order is entered if the employer's address is known on that date or, if the address is unknown, within two business days of locating the employer's address.

By law, the employer must begin the withholding no later than the first pay period that occurs after 14 calendar days following the date the notice was mailed.

(Ark. Code Ann. §§ 9-14-218(a)(2), 9-14-218(a)(3); Public Law 104-193)

Notice

Arkansas Code provides for specific items of information to be included in the Notice of Income Withholding for Support (~~Form FEN-08~~) and Income Withholding Hearing Notice (~~Form FEN-06~~) that is are sent to the NCP noncustodial parent and in the Implementation Notice (~~Notice of Income Withholding for Support, Form FEN-08~~) that is sent to the employer. These forms contain the mandatory information ~~items and are computer-generated in cases where the Child Support Enforcement Unit is designated as the "Court or its Representative" for purposes of income withholding.~~

(Ark. Code Ann. §§ 9-14-201(3), 9-14-221, 9-14-222)

Contested Withholding

The only grounds available to an Obligor to contest ~~the~~ wage withholding are that the person who received the notice was not the person obligated to pay the support, the arrears are incorrect, or the current support amount is incorrect. The NCP noncustodial parent will receive an Income Withholding Claim Form (~~FEN-07~~) to complete and return within 10 calendar days if he or she ~~wants~~ wishes to contest withholding. ~~The NCP must prove that the arrears are less than an amount equal to 30 days of support.~~ Once implemented, income withholding remains in effect, following the NCP noncustodial parent from one employer to another until the support obligation is terminated or is set aside by the court. **(Ark. Code Ann. § 9-14-221)**

Contested Withholding Review

If withholding is contested within 10 calendar days, the investigator will immediately forward the case to the Supervisor/Field Manager for administrative review, and an initial determination on whether the withholding should commence/continue pending further review. ~~The NCP will be advised in writing of this decision and of the opportunity to request an administrative hearing (see Chapter 9). The noncustodial parent will be afforded an opportunity to present his or her case to the court within 30 days of receipt of the notice.~~

Termination Of Income Withholding

If there are no child support arrearages, the NCP noncustodial parent may terminate income

withholding for child support without petitioning the court by giving written notice, in person or by certified mail, to the NCP's noncustodial parent's employer, the physical custodian, OCSE, the clearinghouse, and the clerk of the court. The notice ~~shall~~ must be given no earlier than 30 calendar days before the termination of the duty to pay support, and ~~shall~~ must contain the name and address of the NCP noncustodial parent, the name and address of the NCP's noncustodial parent's employer, a statement that income withholding for child support will be terminated, the date of termination, and the basis for termination of income withholding. (**Ark. Code Ann. § 9-14-235 240**)

The custodian, OCSE, or the clerk of the court ~~has the right to~~ may file a written objection to the termination. The written objection to the termination ~~shall~~ must be made by certified mail to the NCP noncustodial parent and to his or her employer within 10 calendar days after receipt of the notice of intent to terminate income withholding for child support. It must state that the NCP's noncustodial parent's duty to pay child support has not been fulfilled as required by court order, and it must set forth the reasons for nonfulfillment. If a written objection is filed as provided in this section, income withholding for child support shall continue until such time as an order is entered which terminates, alters, or amends income withholding for child support.

NOTE: For information on automatic modification of the support amount when one child emancipates, see Chapter 6. For information on termination of support for the oldest child, see Chapter 6.

Computing Amount For Withholding

~~Federal~~ The Consumer Credit Protection Act (CCPA) and State law limits the amount of wages that are subject to withholding for support. The maximum amounts are expressed in percentages and depend on two variables:

1. Whether the obligated parent has remarried and is supporting a new spouse or dependant child(ren); and,
2. Whether the arrearage owed equals or exceeds 12 weeks of support.
(15 USC 1673(b))

Below is the breakdown of which percentage applies.

- A. 50% of the disposable earnings if the NCP noncustodial parent is supporting a spouse or dependant child other than the spouse or child for whose support the court order was issued. (**Ark. Code Ann. § 9-17-222**)
- B. 55% of the disposable earnings if the conditions of (A) above exist and the amount of arrears are equal to 12 weeks support or greater.
- C. 60% of the disposable earnings if the NCP noncustodial parent is not supporting a spouse or dependant child other than the spouse or child with respect to whose support the court order was issued.

- D. 65% of the disposable earnings if the conditions of C above exist and there is an amount of arrearage of 12 weeks support or greater.

~~Federal and State laws require that if multiple orders for income withholding exist for the same NCP, the employer must make prorated disbursements. Prorated being the proportionate amount each notice or order bears to the total amount due for current support under all notices and orders.~~

If the total to be withheld for current and past-due support exceeds CCPA limits and if all notices and orders for current support have been satisfied, the employer shall make prorated disbursements of the remaining amount available for disbursement toward arrears. *Prorated* means the proportionate amount each notice or order for payment of past due support bears to the total amount due for payment of past due support under all notices and orders.

EXAMPLE

Family A	\$150 current support
Family B	<u>\$200</u> current support
	\$350 total support

The employer has determined that the ~~NCP~~ noncustodial parent has \$300 available for withholding based on ~~Consumer Credit Protection Act (CCPA)~~ limits. Withholding would be computed as follows:

$$\$150 \div \$350 = 43\% \text{ to family A or } \$129$$

$$\$200 \div \$350 = 57\% \text{ to family B or } \$171$$

The OCSE will, as far as practical, provide information and assistance to the employer in delineating the prorated disbursement amounts. ~~and consolidating notices and orders involving the same payor and NCP through the issuance of one notice to the employer.~~

(15 USC 1673(b); Ark. Code Ann. § ~~9-17-222~~ 9-14-228)

Bankruptcy and Income Withholding

If income withholding is in place when a noncustodial parent (employee) files bankruptcy, ~~the wage withholding continues. However, if the employer receives a wage withholding notice for a noncustodial parent who has filed bankruptcy, the employer must notify OCSE that the employee has filed bankruptcy and wait for further instructions before withholding child support or medical payments~~ the caseworker will refer the case to the OCSE attorney for review and instruction on how to proceed.

Noncustodial Parents Receiving SSI Benefits

Income withholding is not available against SSI payments. However, OCSE may use appropriate enforcement remedies to collect any obligation owed by a noncustodial parent who receives SSI.

Expedited Process For Enforcement Cases

OCSE must take an enforcement action from the date of delinquency or locate, whichever is later, within:

- 30 calendar days, if **no** service of process is required
- 60 calendar days, if service of process is required

(45 C.F.R. § 303.6(c)(2))

The regulations require that action to enforce must be commenced and completed within the appropriate time frame. If contempt is the appropriate enforcement action, the motion must be filed, served, and a hearing must be held to reach a final disposition within 60 calendar days of the delinquency or locate, whichever is later. Disposition is defined as the date on which a support order is officially established and/or recorded or the action is dismissed.

INTERSTATE INCOME WITHHOLDING

~~Federal law requires all states to enact income withholding legislation which automatically takes effect when the delinquency is equal to at least one month's obligation. The income withholding process must be applicable to other states' orders to ensure child/medical support owed is collected without regard to residence of the child for whom support is owed. In addition, the Family Support Act of 1988 provided for immediate mandatory wage assignment in all IV-D OCSE orders entered after October 1, 1989. State law also provides for direct income withholding across state lines. An income withholding order of another state is treated the same as an income withholding order issued in this State.~~

INCOMING REQUESTS

~~If a local office receives an income withholding request directly from another state, the information should be entered into the system and assigned a case number. Income withholding can be initiated on any state's order. All payments made pursuant to income withholding on Arkansas IV-D OCSE cases must be sent to Arkansas Child Support Clearinghouse. OCSE will forward Interstate income withholding collections as directed in the other state's order.~~

OUTGOING REQUESTS

~~Within 20 calendar days of a determination that withholding is required in a particular case, and if appropriate, receipt of any information necessary to carry out withholding, Arkansas as the initiating state must notify the IV-D OCSE agency of the state in which the NCP noncustodial parent is employed. The notice must contain all information necessary to carry out withholding, including the amount requested to be withheld, a copy of the support order and a statement of arrearages, if appropriate. The state where the support order is entered must provide the~~

information necessary to carry out withholding, within 30 calendar days of receipt of a request for information.

~~(45 CFR 303.100(h)(3); 45 CFR 302.70 & 303.100)~~

~~When a request is sent to another state, the Interstate Referral Guide should be reviewed to see what information the other state requires. If direct income withholding is permitted, the income withholding request should be made directly to the employer. Otherwise, the Interstate Child Support Enforcement Transmittal Form, EMS 1646 should be sent with the request as a cover document, and forwarded to the Central Registry in the responding state. (ACA 9-17-501)~~

NOTICE OF REGISTRATION OF ORDER **Interstate Enforcement**

When a support order or income-withholding order issued in another state is registered, the registering tribunal (Arkansas) ~~shall~~ must notify the nonregistering party. The notice must be accompanied by a copy of the registered order, along with other documents and relevant information. The notice must inform the nonregistering party that a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of Arkansas. A hearing to contest the validity for enforcement of the registered order must be requested within 20 calendar days after notice. Failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation ~~of the order and~~ enforcement of the order and alleged arrearages, and will preclude further contest of that order with respect to any matter that could have been asserted.

~~(Ark. Code Ann. §§ 9-17-601 to 603; 45 CFR 303.100 (h)(3))~~

Direct Income Withholding

~~When an employer receives an income withholding order, he or she shall immediately provide a copy of the order to the affected NCP (employee). The employer shall treat an income withholding order issued in another state, which appears regular on its face, as if it had been issued in Arkansas. The employer shall withhold and distribute the funds as directed in the withholding order by complying with the terms of the order that specify the duration and amount of periodic payments of current child support stated as a sum certain, the person or agency designated to receive payments, and the address to which the payments are to be forwarded. The order may also provide for medical support in the form of periodic cash payment, stated as a sum certain. The order will specify the amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the custodian's attorney stated as sum certain and the amount of periodic payments of arrearages and interest on arrearages, stated a sum certain.~~

~~An employer must comply with the law of the state of the employee's (NCP's noncustodial parent) principal place of employment for withholding from income, for example:~~

- ~~•———The employer's fee for processing an income withholding order.~~
- ~~•———The maximum amount permitted to be withheld from the employee's income.~~

- ~~• The times within which the employer must start the withholding order and forward the child support payment.~~
- ~~• Prorating withheld amounts among multiple families.~~

~~An employer who willfully fails to comply with an income withholding order issued by another state is subject to the same penalties that may be imposed for noncompliance with an order issued in Arkansas. The initiating state will bring action against an employer for noncompliance. (ACA 9-17-502-506)~~

OCSE will initiate income withholding by sending an income withholding notice to an employer in any state where the noncustodial parent is located and employment is verified. If the employer fails to implement withholding, OCSE will forward a request to the other state's child support agency to enforce the income withholding order.

Contest By The NCP Noncustodial Parent Of An Income Withholding Order Issued In Another State

~~Arkansas Code allows a A NCP noncustodial parent to may contest the validity or enforcement of an income withholding order issued in another state; and received directly by an employer in Arkansas, by giving notice to the following individuals/entities:~~

- ~~• The support enforcement agency providing services to the custodian.~~
- ~~• Each employer that has directly received an income-withholding order.~~
- ~~• The person or agency designated to receive payments in the income-withholding order.~~
- ~~• To the custodian if no person or agency is designated to receive payments.~~

If a notice contesting the income withholding order of another state is received in Arkansas, the caseworker must contact the other state to advise that the noncustodial parent has contested the direct income withholding. If the other state initiates interstate enforcement pursuant to UIFSA, the order will be registered as directed by Ark. Code Ann. § 9-17-501.
~~(ACA 9-17-506)~~

UNEMPLOYMENT BENEFITS

~~If the NCP noncustodial parent is receiving unemployment benefits, send the court order or an agreement to withhold unemployment benefits signed by the NCP noncustodial parent to Central Office, Special Collections section Employment Security Division (ESD) to implement the withholding process. The investigator caseworker shall send an Income Withholding Notice to the insurance company in the case of workers' compensation.~~

Intercept Of Unemployment Benefits

Arkansas Code provides for an information exchange with the Employment Security Division (ESD) and the withholding of Unemployment Insurance Benefits (UIB) to apply against a court-ordered child support obligation. Intercept of ~~Unemployment Benefits~~ UIB is subject to income withholding for the amount of the obligation. The amount withheld cannot exceed Consumer Credit Protection Act (CCPA) limits as discussed in Chapter 5, “Computing Amount for Withholding.”

(Ark. Code Ann. §§ 11-10-109, 11-10-110)

Case Selection Criteria

Cases to be considered for withholding of ~~unemployment benefits~~ UIB must meet the following criteria:

- There must be a valid court order for child support;
- The court order must direct ESD to withhold from UIB, or the noncustodial parent must agree that ESD will withhold from UIB;
- There must be a delinquency resulting from nonpayment of the court-ordered support obligation; and
- ~~Non-TEA cases must be open. TEA cases can be open or closed. If the case is closed TEA, a recovery case for the collection of arrears due the State must be established, and provisions made for current support payments to be directed to the Custodian. There must be an open OCSE case.~~

Intercept Agreement

~~Most court orders will contain a provision for the intercept of Unemployment Insurance Benefits. However, if the court order is silent, the investigator is responsible for obtaining a signed intercept agreement from the NCP. The data system should produce an agreement for each appropriate case. If one is not generated, a blank Agreement Form, OCSE-1611 (See Forms Appendix) can be completed. The NCP's signature and Social Security Number are required on all agreements.~~

~~In place of an agreement, a court order providing for a 25% deduction from Unemployment Benefits may be used as the basis for withholding.~~

~~The agreement or court order for withholding should be sent to Central Office, Special Collections Section. Central Office will send the original agreement or court order to ESD to implement the withholding process.~~

There should be a provision in a court order for income withholding that permits withholding from UIB. If the income withholding provision is not in the order, a Notice Regarding Unemployment Compensation with the Agreement to Withhold from Unemployment Insurance

Benefits will be sent to the noncustodial parent. This form is sufficient to begin income withholding from UIB. If the noncustodial parent fails to sign and return the agreement, court action will be necessary to change the order and permit withholding from UIB.

The amount to be deducted will be the amount stated in the order or current support amount plus an additional 20% for arrears or the amount ordered paid on arrears. The amount to be paid on arrears must be either in the court order or in the agreement that the noncustodial parent signs. As stated above, the total amount to be withheld is subject to CCPA limits.

FEDERAL OFFSET PROGRAM

The Omnibus Budget Reconciliation Act of 1981 and the Internal Revenue Code authorize the collection of delinquent child/medical support through the interception of federal income tax refunds. Public Law 98-378 expands this collection process to non-TEA cases and authorizes collection of past-due support owed to adult disabled children if there is a support order in effect for the child and the child, while a minor, was determined to be disabled.

For cases that meet the criteria for a tax refund offset, arrears will automatically be certified to Financial Management Services (FMS) for federal tax offset and administrative offset. Eligible cases will be extracted and sent to the State Department for passport denial. OCSE will not certify a case in which the noncustodial parent or his or her spouse has filed for bankruptcy under Chapters 7, 11, or 13 of Title 11 of the US Code unless the automatic stay has been lifted or is no longer in effect. **(AT 98-17)**

Financial Management Service (FMS), a bureau of the Department of Treasury (DoT), operates the Treasury Offset Program (TOP), which maintains a centralized TOP Master Debtor File. This file contains a list of taxpayers owing debts to various agencies, including child support debts. On January 1, 1999, FMS began operating the Federal Income Tax Refund Offset Program and Administrative Offset Program as part of TOP. Funds offset through these programs are sent by FMS to the Program Support Center (PSC), which then, on behalf of OCSE, forwards the funds to the state or states that submitted the obligor to OCSE for offset.

Criteria For Certification

- ~~IV-D cases only.~~ Only those cases in which child support enforcement services are provided are eligible.
- Past-due support:
 - May include medical support only if a specific dollar amount is included in the order.
 - May not include fees or court costs or any other non-child support debts owed to the State or to the family.
- ~~The State IV-D OCSE agency must:~~
 - Verify the accuracy of the arrears.
 - Have a copy of the order and payment records or signed affidavit from ~~CP~~ the custodial parent attesting to the arrears.

- Verify the ~~NCP's~~ noncustodial parent's name and SSN.
- Have the ~~NCP's~~ noncustodial parent's current address.
- Certify that the information is accurate and that the State has afforded the ~~NCP~~ noncustodial parent all due process rights.
- Certifications in ~~TANF~~ TEA cases may include an amount for support and maintenance of a child, or support of a child and the parent with whom the child is living.
- Spousal support is eligible for certification in ~~Non-TANF~~ Non-TEA and Medicaid-only cases in which the parent is living with the child and spousal support and child support obligations are included in the same order.
- When certifying an interstate case, the request may be made only by a state which has taken an assignment or application for ~~IV-D~~ child support enforcement services.

Time Frames For Certification

- ~~Modify the certified file~~ The amount of arrears certified is modified monthly to show the increase or decrease in the arrears amount ~~or new cases~~.
- ~~Submit new~~ New cases are submitted on a continuing basis. A new case is one that has not been previously submitted to the combined offset program, or a case that was deleted because the debt was satisfied but in which subsequent arrears have accrued and the case is being certified for offset again.

Federal Income Tax Offset

Case selection for Federal Income Tax Offset is as follows:

- Arrears must not be less than \$150 and must be delinquent for at least three months for ~~TANF and IV-E~~ foster care cases.
- Arrears must not be less than \$500 and must be delinquent for at least three months for ~~non-TANF~~ non-TEA and Medicaid-only cases.
- The child must be a minor at time of offset as of December 31 of the year in which the case is originally submitted to OCSE for tax offset. **(Federal Offset User's Guide 1.2.1)**
- Adult disabled persons with an ongoing support order may be certified if they were determined to be disabled while they were minors.
- Federal income tax refund offset is mandatory for all cases that meet the criteria.

Administrative Offset

All case types eligible for Federal income tax offset are eligible for administrative offset.

- Recurring and nonrecurring payments can be offset, such as:
 - Federal Retirement payments
 - Vendor and miscellaneous payments
 - Expense reimbursement payments
 - Travel payments.

- The debt must be at least \$25 and 30 days past due.
- There is no age restriction for the child.

~~Administrative Offset is optional.~~ The cost of each offset will be passed on to the custodial parent in non-TEA cases. If cases are submitted for administrative offset, federal wages and retirement payments will be excluded and income withholding will be used to collect from these sources.

U.S. Passport Denial

U.S. Passport Denial is part of the federal offset program. Cases submitted for the federal tax offset program with arrears that exceed \$5,000 will be extracted from the electronic file and forwarded to the U. S. State Department. The obligor is “flagged” and a passport is denied at application. The obligor is told to contact the child support office that certified the debt. Only the state that certified the debt can withdraw or remove the obligor from the denial process. Participation in the passport denial process is mandatory. When arrears fall below the \$5,000 threshold, the case will remain “flagged” until such time that the ~~NCP~~ noncustodial parent pays the amount owed in full ~~or makes suitable arrangement to pay the balance.~~ There is no age restriction for the child. Passport Denial is mandatory for all cases that meet the criteria.

Currently, only passport denial is operational. ~~In the future, passports may be subject to revocation and/or restriction.~~ If more than one state certified the obligor, all states must remove the obligor from the process before a passport can be issued.

~~A form has been developed “Notice of Withdrawal of Passport Denial” to remove the obligor from the denial process. The form should be completed on official letterhead and signed by an authorized person. The form is mailed to federal OCSE Special Collections Unit. There is a one week turnaround for removal from the denial process. Once a person is removed from the denial process and receives a passport, the passport is good for 10 years. Carefully review cases before sending the notice for removal from the denial process.~~

The Department of State (DOS) will not be notified to remove the denial flag unless: 1) the noncustodial parent pays the full amount owed, 2) the denial is an error, or 3) there is a life or death situation as described below and the noncustodial parent makes a good faith payment of the current support amount for the month plus at least 25% of the amount of arrears and establishes income withholding for continued payments. An erroneous submittal is for an individual who has never owed child support and does not include someone who owed child support at the time of submittal/denial and has since made payments.

Once the flag has been removed and the passport is issued, the passport does not expire for 10 years. All cases will be carefully reviewed before sending notice for removal from the denial process.

A Notice of Passport Withdrawal letter will be submitted to Federal OCSE to remove the obligor from the denial process **only** for life or death situations involving an immediate family member or an erroneous submission. In life or death situations, verification of the death or medical emergency is mandatory. Verification must be from a medical doctor or a Red Cross notification.

Immediate family is defined as:

- Parent or guardian of obligor
- Child (natural or adopted)
- Grandparent
- Sibling
- Aunt
- Uncle
- Step-child
- Step-parent
- Step-sibling
- Spouse

Priority

Financial Management Services (FMS) will pay certified debts in the following priority:

- IRS tax debts have first priority over all other offsets.
- ~~TANF~~ TEA and foster care arrearages.
- All other federal debts.
- ~~Non-TANF~~ Non-TEA child support arrearages including Medicaid only cases.

Pre-Offset Notices

OCSE will send pre-offset notices to an obligor when the case meets the criteria for certification to the Federal Offset Program. Certified arrearages may be modified higher or lower without further notice to the obligor. If an arrearage is paid to a zero balance or modified to a zero balance and then accrues an arrearage at a later date, a new pre-offset notice will be sent to the obligor prior to re-certification for the new arrearage.

Federal Tax Offset Complaint Resolution

Upon receipt of the pre-offset notice, the ~~NCP~~ noncustodial parent may contact the local OCSE office to contest the debt. At this time, the case record should be reviewed to determine whether the case was certified correctly. If reduction or deletion of the certified amount is required, the local OCSE office takes the necessary action. If a request for a hearing has been received, but the issue is resolved without a hearing, a letter must be sent to the ~~NCP~~ noncustodial parent explaining how the issue was resolved and confirming that an Administrative Hearing will not be held.

If the complaint concerns a joint tax refund, the ~~NCP~~ noncustodial parent should be advised to file an amended tax return with the Internal Revenue Service (IRS). IRS will process the spouse's portion directly to the taxpayer.

Federal Tax Offset Administrative Review/Hearing

The Federal Office of Child Support Enforcement OCSE will follow policies outlined in Chapter 9, Administrative Hearings, for conducting reviews on federal tax offset complaints.

If the complaint is on an intrastate case (both NCP the noncustodial parent and custodian are in Arkansas) the hearing will be conducted ~~pursuant to the same procedures as the state tax offset hearing.~~ following procedures outlined in Chapter 9, Administrative Hearings. In an interstate case, at the request of the noncustodial parent, the review must be conducted by the state that issued the support order.

When an Administrative Review or Administrative Hearing is conducted in the state with the order, the certifying state ~~is bound by~~ will comply with the decision made by that state.

Federal Tax Offset Hearing Referral

When the local office receives a hearing request, the request will be researched to determine if the complaint is valid. ~~An attempt must be made to resolve the complaint by the local OCSE office as the first step of the review process. Each complaint should be researched and a written response sent to the NCP noncustodial parent. Only those cases in which the local OCSE office is unable to resolve the complaint can be referred to the Appeals & Hearings Section for an Administrative Review. If the case was certified in error, the necessary corrections will be made and the NCP noncustodial parent notified.~~

~~The Appeals and Hearings section will conduct a review if the complaint involves an issue that can be settled by an agency decision. Complaints regarding denied visitation, paternity determinations or amount of court ordered child support must be addressed by the court. Complaints that concern the validity and accuracy of the arrearage amount should be referred for an Administrative Review.~~

~~Referrals for an Administrative Review must contain the following:~~

- ~~• Completed OCSE FEN 93 Hearing Statement. (See Forms Appendix)~~
- ~~• Copy of all Child Support Orders.~~
- ~~• Breakdown of arrearage calculations. _____~~
- ~~• All relevant correspondence relating to the offset on the issue raised by the noncustodial parent.~~
- ~~• If non-TEA, copy of non-TEA contract signed by the custodian.~~

~~The referral should be sent to Central Office, Attention: Appeals and Hearings. It will be reviewed to determine if all the necessary information is included. The Appeals and Hearings Section will notify the NCP noncustodial parent of the date, time and location of the hearing.~~

Judicial Review

If the NCP ~~noncustodial parent~~ is not satisfied with the decision of the Appeals and Hearing Section in either a State or federal tax offset hearing, ~~he or she has the right to judicial review under the Administrative Procedure Act. (Ark. Code Ann. § 25-15-201 et seq)~~

STATE INCOME TAX REFUND OFFSET

Arkansas Code authorizes collection of current support and past due child/medical support, as defined by Arkansas code, through the interception of State income tax refunds.

A listing of delinquent obligors and the amount of past due child/medical support certified for collection is combined with other debts due to Arkansas and submitted to the Revenue Department by December 1 of each tax year. This list is matched against the Revenue Department taxpayer file. The Revenue Department then flags the matches. When a tax refund becomes available for an individual whose debt has been certified, the refund is applied against the amount of the debt. The Revenue Department pays any excess directly to the taxpayer.

~~Retroactive support, m~~Medical support, overpayments, cost and fees are subject to tax intercept. The amount certified for State Tax Offset shall not include instant debt amounts entered as judgements at the time the court issues a support order, so long as regular payments have been made on this debt type.

Collections, as a result of State income tax refund offset paid to the family or distributed to title IV-A and IV-E foster care cases, must be sent to the family or IV-A/IV-E agency as appropriate ~~within 30 calendar days of the date of initial receipt by the IV-D agency.~~

Cases Eligible For Offset

In addition to the legislative requirements, OCSE has established the following criteria for cases to be submitted for State intercept:

- There must be a court order for support.
- Arrearage must be at least \$50 for TEA or Foster Care cases, \$100 for Non-TEA cases.
- The fees of the noncustodial parent must total at least \$100.00 for those cases with TEA arrears only. For cases with non-TEA arrears, the arrears and fees combined must total at least \$100 before they are certified.
- There must be an assignment of child support rights to the State of Arkansas for TEA, Medicaid and IV-E Foster Care cases or a contract for child/medical support for non-TEA cases.

- Arkansas ~~is~~ must be the responding case in interstate cases (i.e., the noncustodial parent must reside in Arkansas).
- OCSE must not submit ~~a case in which the NCP or spouse~~ a case in which the noncustodial parent or the noncustodial parent's spouse has filed bankruptcy under Chapters 7, 11, 12, or 13 of the United States Code. If bankruptcy is filed after certification and a collection is made, refer the case to legal for amended proof of claim.
- The custodial parent will be certified for offset if there is an overpayment balance in excess of \$25, the debt is at least 90 days old, and no payment has been applied to the overpayment balance within the preceding 90 days. (Custodial parent fees will not be certified.)

~~An overpayment owed by the custodial parent can also be collected through State tax intercept.~~

State Tax Pre-Offset Notices

The individual who is being certified to the Revenue Department ~~must~~ will be given written notice in advance of the agency's intent to intercept his or her tax refund. ~~The individual then has 30 days from the date the notice is mailed to make a written request for an Administrative Hearing to contest the validity of the debt.~~

State Tax Offset Informal Complaint Resolution

Typically, a ~~NCP noncustodial parent~~ noncustodial parent will contact the local OCSE office with questions regarding the certification process or challenging the validity of a debt. Many complaints can be resolved without a formal Administrative Hearing. It is important to listen carefully to the nature of the complaint and to research the facts of the case thoroughly. If adjustment or deletion of the certification is required, the local OCSE office must take appropriate action.

If the NCP noncustodial parent requests the release of a spouse's portion of a joint tax refund, he or she should be advised to contact Central Office, Special Collections Section, to request release of a spouse's portion of a joint tax refund.

State Tax Offset Hearing Request

~~The NCP noncustodial parent has 30 calendar days from the mailing date of the pre-offset notice to file a written request for a hearing. An attempt must be made to resolve the complaint by the local OCSE office as the first step of the review process. Each complaint should be researched and a written response sent to the NCP noncustodial parent.~~

~~The Hearings Section will only conduct a review if the complaint involves an issue that an agency decision can settle, e.g., validity of arrears. The court must review other disputes. The NCP noncustodial parent should be advised that legal action would be required for a determination on any other issues.~~

~~Referrals for an Administrative Review must contain a completed Hearing statement (OCSE FEN-~~

~~93), a copy of the order for child/medical support, a breakdown of arrearage calculations, and all relevant correspondence. The referral will be reviewed to determine if all the necessary information is attached and then forwarded to the Appeals & Hearings Section, which will notify the NCP noncustodial parent of the date, time and location of the hearing.~~

IRS Full Collection Services

~~OCSE may refer a case to the IRS for collection. There must be a court or administrative order for support for a case to be eligible for certification to the IRS. The amount to be collected under the support order must be at least \$750 in arrears, and at least six months must have elapsed since the last request for referral of the case to the IRS. (45 CFR 303.71)~~

~~OCSE, the CP custodial parent, or the CP's custodial parent's representative must make reasonable efforts to collect the support through the State's own collection mechanisms before referring a case to the Secretary of the Treasury.~~

~~OCSE must submit requests for certification to the Regional Office in Dallas, TX. Requests must also be signed by the IV-D Director OCSE Administrator or his designee.~~

~~All requests must contain the following information:~~

- ~~• Sufficient information to identify the debtor, including the following: individual's name, social security number, address, and place of employment; the source of this information; and the date it was last verified.~~
- ~~• A copy of all court or administrative orders for support.~~
- ~~• The amount owed under the support orders, including a statement of whether the amount is in lieu of, or in addition to, amounts previously referred to IRS for collection.~~
- ~~• A statement that OCSE, the CP custodial parent, or the CP's custodial parent's representative has made reasonable efforts to collect the amount owed using the State's own collection mechanism, or mechanisms that are comparable.~~
- ~~• A description of the actions taken, why they failed, and why further state action would be unproductive.~~
- ~~• The dates of any previous requests for referral of the case to the IRS.~~
- ~~• A statement that OCSE agrees to reimburse the IRS for the costs of collection.~~
- ~~• A statement that OCSE has reason to believe that the debtor has assets that the IRS might levy to collect the support, and the nature and location of the assets, if known.~~

~~The Regional Representative will review each request to determine whether it meets the~~

requirements. If a request meets all requirements, it will be promptly certified and transmitted, along with a copy of all supporting documentation, to IRS. The IV-D OCSE agency will be notified in writing of the transmittal. If the request does not meet all requirements, the Regional Representative will attempt to correct the request in consultation with the IV-D OCSE agency. If the request cannot be corrected through consultation, the Regional Representative will return it to the agency with an explanation of why the request was not certified.

LICENSE SUSPENSION

Arkansas Code law authorizes and establishes procedures for the suspension of specified State-issued licenses, including commercial driver's and regular driver's licenses, including motorcycles; permanent license plates; recreational licenses; and occupational, professional and business licenses of an NCP obligor, if certain conditions exist on a case. When interviewing the NCP obligor, the local IV-D OCSE office ~~shall~~ should request that the NCP obligor allow the office to copy the NCP's obligor's driver's (or commercial driver's) license and Social Security card for identification purposes and for future reference. This information is to be maintained in the file at the local IV-D OCSE office. All licensing authorities affected may not ~~initially~~ be capable of interface automation with the IV-D OCSE database. Periodically, staff should make inquiries with custodians or other knowledgeable sources to determine if an NCP obligor holds a State-issued license subject to suspension.
(Ark. Code Ann. § 9-14-239 ~~Amended by Act 1514 of 1999~~)

Note: There are two classes of driver's licenses which do not fall within the definition of "license": Class ID (issued for identification only) and Class X (issued for persons who have been ticketed for a traffic violation in Arkansas but have not been licensed to drive in Arkansas). These two types of licenses will not be suspended. (OCSE-00-002)

One of the following two conditions must be met in order to suspend an obligor's driver's license:

- Condition 1: ~~NCP~~ The obligor is delinquent on a court-ordered child support payment in an amount equal to three months obligation or more, or the NCP obligor is delinquent on payments toward an adjudicated arrearage in an amount equal to a three months obligation or more; or
- Condition 2. ~~NCP~~ The obligor is the subject of an outstanding failure to appear, body attachment, or bench warrant related to a child support proceeding.

NOTE: If the NCP obligor has filed bankruptcy, no action to suspend or revoke a license should be taken unless an order granting relief from the automatic stay has been obtained from Bankruptcy Court. Consult with the

responsible ~~IV-D~~ OCSE attorney. Suspensions made prior to a filing of bankruptcy will not be reinstated.

Exceptions to the above conditions:

1. If the NCP obligor was assessed retroactive support, the NCP obligor ~~may~~ is not be "delinquent" in his child support payments for those retroactive support payments. For example, if the NCP obligor is the putative father and the court finds him to be the legal father and invokes the law authorizing the setting of support retroactively, then the NCP obligor is not delinquent because there was never an obligation to pay anything before the court date. "Instant debt" will not be considered an "adjudicated arrearage" for the purpose of this policy. ~~The NCP~~ However, if the obligor must fails to pay on a retroactive support order for three months or in a total amount equal to at least three months obligation, before being subject to license suspension may be appropriate. (Ark. Code Ann. § 9-14-239)
2. The NCP obligor pays the delinquency below an amount equal to three months obligation.
3. NCPs Obligors who are currently in compliance with a written agreement with OCSE requiring periodic installment payments for liquidation of a child support delinquency or adjudicated arrearage, NCPs obligors currently in compliance with their most recent court order reducing a child support arrearage to proper judgment and requiring periodic payments for liquidation of the judgment, or NCPs obligors who are currently making regular and periodic payments on a child support delinquency or adjudicated arrearage through income withholding.
4. The NCP obligor enters an Agreed Order or written installment agreement with OCSE with instructions to pay current support plus an additional specified amount to be applied to the arrearage/delinquency. The Agreed Order or written installment agreement should contain a provision that stipulates that if the NCP obligor becomes 30 days delinquent on the Agreed Order or written agreement, the license(s) affected will be suspended immediately, and the NCP obligor specifically waives all rights to an administrative hearing or further notice prior to the suspension(s).
5. NCPs Obligors who are periodically making regular payments voluntarily in an amount equal to current support plus at least 10% toward liquidation of the arrearage/delinquency, or are paying to the extent permitted under Consumer Credit Protection Act guidelines.

OCSE can place a suspension against an expired license, which will prevent the noncustodial parent from receiving a new license until arrangements have been made with OCSE to pay current support and an amount toward arrears.

Notice Of Intent To Suspend License

If either Condition 1 or Condition 2 noted above exists and none of the five Exceptions apply, the responsible ~~field~~ local OCSE office will mail a Notice of Intent to Suspend License (~~OCSE-FEN 21~~), the “60-day Notice,” to the NCP obligor. Notices should be sent certified mail to the most current address as provided by the licensing authorities, or to the address provided to the court by the NCP, unless a verified address has been obtained. In the event a notice sent by certified mail is rejected or unclaimed, a subsequent mailing of the Notice by regular first class mail shall be considered sufficient (must be narrated/documented). The notice will specifically identify all known licenses and permanent license plates held by the NCP obligor and will inform the NCP obligor of the opportunity to request an Administrative Hearing within 30 calendar days following receipt of the 60 Day Notice. The notice shall advise the NCP obligor that identified licenses will be suspended unless the request for a hearing is received within 30 calendar days of the notice. (Ark. Code Ann. § 9-14-239)

If the 60 Day Notice ~~has~~ days have expired, and no appeal is pending, notify Central Office to suspend the license. The NCP obligor must ~~come into the office and~~ enter into an installment agreement before the license is will be reinstated. ~~Another option always available to~~ Additionally, the NCP obligor ~~to either may~~ avoid suspension or ~~to obtain reinstatement is to pay~~ by paying the delinquency to an amount below three months of the ~~unmet~~ obligation.

License Suspension Informal Complaint Resolution

Following issuance of the ~~60-Day Notice~~ Notice of Intent to Suspend License (~~OCSE-FEN 21~~), an NCP obligor may avoid license suspension by contacting the ~~local IV-D~~ OCSE office and entering into an Agreed Order or written installment agreement with OCSE as described in Exception 4 listed above. Agreed Orders and Written Installment Agreements made after issuance of a ~~60-Day Notice~~ License Suspension Notice should include a condition that requires that some payment be made by the NCP obligor before expiration of the ~~60-day period following issuance of the 60-Day Notice~~ (~~OCSE-FEN 21~~). notice of intent to suspend. In the event the NCP obligor contests the accuracy of the arrearage information or the duration of the delinquency, he or she ~~must~~ can schedule an appointment with the ~~local IV-D~~ OCSE office to resolve the issue. The ~~local IV-D~~ OCSE office ~~will~~ must promptly attempt to resolve the complaint. Issues that cannot be resolved by the ~~local IV-D~~ OCSE office should be forwarded to Central Office for an Administrative Hearing if requested by the NCP obligor.

Legal Issues

~~An Administrative Hearing cannot clear an outstanding failure to appear, body attachment, or bench warrant—the court must deal with these issues. these issues may only be addressed by the court issuing the order. The NCP obligor should be advised that legal action would be is required for a determination on any of these issues. While the outstanding failure to appear, body attachment, or bench warrant remains, adverse action for license suspension must proceed under this policy. A In an interstate case, a foreign order must be registered for enforcement or modification before the administrative process to suspend a license can begin. (OCSE Memo 97-001)~~

Licensing Suspension Hearing Notice And Packet

Referral packets for administrative hearings must contain copies of the following:

- ~~60 Day Notice (OCSE FEN 21).~~ Notice of Intent to Suspend License.
- NCP's Obligor's request for a hearing.
- Hearing statement completed by the local office.
- Copies of all child support orders.
- An arrears summary.
- Copies of any relevant correspondence between the NCP obligor (or representative) and the Office of Child Support Enforcement.

The packet should be routed to the Central Office, Attention: Appeals and Hearings. The Appeals and Hearings Section will notify the NCP obligor and the responsible local ~~IV-D OCSE~~ office of the date, time and location of the hearing. The hearing scheduling notice ~~shall recite~~ will provide that the NCP's obligor's failure to appear for the scheduled hearing will be considered a waiver of the administrative hearing process. The Appeals and Hearings Section will notify the initiating local ~~IV-D OCSE~~ office that the hearing packet has been received and advise whether any additional information or documents are needed.
(Ark. Code Ann. § 9-14-239; OCSE Policy Chapter 9)

~~License Suspension Hearing~~

~~Administrative hearings on license suspension will be conducted according to OCSE Policy Manual Chapter 9, Rules of Order for Administrative Hearings, with the exception that 30 calendar days are allowed to request an administrative hearing following receipt of the Notice of Intent to Suspend. Administrative hearings on license suspension are limited to a determination whether either of the two Conditions listed above are present and whether any of the five Exceptions are satisfied.~~

~~License Suspension Right Of Appeal To Chancery Circuit Court~~

~~An NCP obligor who is not satisfied with may appeal an agency administrative hearing decision has the right to appeal to a court of appropriate jurisdiction. The NCP obligor may appeal the suspension action by filing a petition in the chancery circuit court or the juvenile division thereof, as appropriate in of the county in which the child support order was entered within 30 calendar days from the effective date of the suspension. The petition is must be filed by the NCP obligor with the appropriate Chancery Circuit Clerk and must be accompanied by include a copy of the Licensing Suspension Form (FEN94) or a copy of the final administrative hearing decision. The NCP obligor is responsible for causing the Chancery Circuit Court Clerk to issue a summons and service of these documents on the OCSE Administrator. The case shall be tried *de novo*.~~

(Ark. Code Ann. § 9-14-239)

~~Chancery and Juvenile Circuit Judges are vested with jurisdiction to determine whether the petitioner is entitled to license reinstatement or whether the decision of the hearing officer should be affirmed, modified, or reversed.~~

License Suspension And Reinstatements

Central Office staff will have access to Driver Control files and will be responsible for keying any suspensions or reinstatements of driver's and commercial driver's license. All suspensions and reinstatements must be submitted in writing to Central Office, Attention: ~~Appeal and Hearings Section~~ License Suspension/Reinstatement Section. To ensure that the NCP obligor is allowed 60 calendar days from the receipt by mail of the Notice of Intent to Suspend License (OCSE FEN-21), a copy of this notice must be retained in the case file ~~with the signed certified mail receipt attached, whenever available~~. If an NCP obligor pays the arrearage below an amount equal to three months obligation, the license must be reinstated. Following license suspension, an NCP obligor may obtain license reinstatement by entering into an agreed order or written installment agreement with OCSE as described in OCSE policy. The Agreed Order or written installment agreement should contain a provision requiring a lump sum payment in addition to requiring the periodic payment of current support and regular periodic payments on the arrearage/delinquency. It is imperative that Central Office be notified to immediately take necessary actions to restore the license or permanent license plate of the NCP obligor when the condition warranting suspension has been removed. ~~However, if the license has otherwise expired, the NCP should be advised to contact the appropriate licensing authority to obtain a new license.~~ (Ark. Code Ann. § 9-14-239)

In some instances, NCP's obligors may initiate action on their own accord resulting in a court order eliminating the presence of Condition 1 or 2. If the NCP obligor takes such action eliminating the threshold condition for license suspension prior to the effective date of the intended suspension, the responsible ~~field~~ local OCSE office must immediately notify the Appeals and Hearings Office to take action to set aside suspension activity on the case and to notify the NCP obligor accordingly.

In the event of fraud or mistake resulting in a wrongful suspension, OCSE shall immediately notify the licensing authority involved to restore the license or permanent license plate of the NCP obligor as appropriate. When an ~~Title IV-D~~ OCSE case closes, OCSE loses its authority to enforce the child support order. Although the case may ~~be placed in monitoring~~ remain open for payment processing, OCSE does not expend any efforts on the case to enforce or collect child support. Therefore, when an ~~IV-D~~ OCSE case is closed, OCSE cannot continue a license suspension action against the NCP obligor.

When a case closes or is changed to the status of "payment processing only", the ~~investigator caseworker~~ responsible for that case should check to see if OCSE has suspended any of the NCP's obligor's licenses for failure to pay child support. If any of the NCP's obligor's licenses are suspended for failure to pay child support, the investigator must immediately contact the license suspension section in Central Office and ask that the license(s) be reinstated. The request should be made in writing and a copy of the request placed in the ~~IV-D~~ OCSE case file.

When properly requested, the Central Office license suspension section will reinstate the NCP's obligor's drivers license and, if necessary, notify the appropriate licensing agency to reinstate any other license(s). Central Office will also notify the NCP obligor that his or her driver's license has been reinstated, and that a notice has been sent to the other licensing agencies to reinstate any other suspended licenses. Unless otherwise requested, no further action concerning the NCP's obligor's licenses will be taken by Central Office. Any file kept on the NCP obligor by Central Office will be closed and placed in storage.

Referrals And Injunctions For Suspended License

Whenever OCSE or any of its local offices determine that an NCP obligor has engaged in an activity ~~despite not authorized per license suspension of the license to engage in that activity~~, a referral should be made to the licensing authority and/or to law enforcement, as appropriate. In some cases the local ~~IV-D OCSE~~ office may consider seeking a court injunction from the appropriate ~~Chancery Court or Juvenile Division thereof~~ Circuit Court restraining the NCP noncustodial parent from any activity not permitted during license suspension. The responsible ~~IV-D OCSE~~ attorney should be consulted if the local ~~IV-D OCSE~~ office believes that injunctive relief should be pursued.

Law License Review

Semiannually, the Clerk of the Arkansas Supreme Court is requested to furnish ~~the Office of Child Support Enforcement~~ OCSE with a list of persons ~~that who~~ possess an Arkansas Law License. NCPs Obligors on the list who meet one of the Conditions and none of the Exceptions listed previously will be referred to the Clerk of Supreme Court for review of their law license.

LIENS ON ASSETS HELD BY FINANCIAL ENTITIES

Arkansas law requires each financial entity (defined as any bank, trust company, savings and loan association, credit union, insurance company, or any corporation association, partnership, or individual receiving or accepting money or its equivalent on deposit ~~as a business in Arkansas~~) to cooperate with OCSE to develop, implement, and operate an electronic automated data match system using automated data exchanges to provide OCSE, each calendar quarter, with the following information: the name, record address, social security number, or other taxpayer identification number and other identifying information for each NCP noncustodial parent who maintains an account at their respective financial institution.

OCSE may also impose a lien, seize assets, or freeze an account based on verification of an account held by an individual at any time information becomes available to the ~~investigator~~ caseworker. The ~~investigator~~ caseworker shall notify the Lein/Levy Section when such information becomes available. The process to seize the asset will be completed by the Lein/Levy section staff.

The following criteria must be met to qualify for a lien on assets held by financial entities:

- The case must be an open full service case.
- Arrears must be at least \$500 or three months obligation, whichever is greater.

- No payment made within the last 45 days.
- The noncustodial parent is not currently a TEA recipient.
- The noncustodial parent is not in bankruptcy.
- A Family Violence Indicator is not attached to the noncustodial parent.

An account is:

- Demand Deposit Account
- Checking or Negotiable Withdrawal Order Account
- Savings Account
- Money-Market Mutual Fund Account
- Time Deposit Account

Withholdings, intercepts, and seizures may be initiated by OCSE without obtaining a prior order from any court. OCSE shall provide written notice to the custodian and ~~NCP~~ noncustodial parent informing them that withholding, intercept, or seizure has commenced; of their right to an administrative hearing; and the procedures to follow if either of them desires to contest the action(s). The notice to the custodian and ~~NCP~~ noncustodial parent shall include the information provided to the employer, agency, or financial institution.

Any financial entity, officer, agent, or employee of such establishment, participating in good faith and providing information requested for the purpose of carrying out a child support order, shall be immune from liability and suit for damages that might otherwise result from the release of the information. Any information obtained shall become a business record of OCSE and be subject to privacy safeguards.

OCSE shall enter into cooperative agreements with financial entities to provide for automatic data exchanges to the maximum extent feasible in order to locate account assets of noncustodial parents.

OCSE is authorized to pay a reasonable fee to financial entities for conducting an automated data match, not to exceed the actual cost incurred by the financial entity.

OCSE may also impose a lien against the real and personal property of a ~~NCP~~ noncustodial parent who owes overdue support and who resides or owns property in the State. Arkansas ~~Code~~ law provides for relief against from the fraudulent transfer of property and assets by an obligor in an attempt to avoid liens, and provides a creditor provisions needed to obtain avoidance of the transfer to the extent necessary to satisfy a claim subject to the limitations in Arkansas ~~Code~~ law. A settlement agreement between the obligor, a child support creditor, and/or OCSE may be obtained.

Financial entities shall, in response to a notice of lien or levy, surrender assets held by such financial entities on behalf of any ~~NCP~~ noncustodial parent who is subject to a child support lien pursuant to a judgment or by operation of law. In cases in which there is overdue child support, and in an effort to secure assets to satisfy any current support obligation and ~~the~~ any arrearage,

~~the Office of Child Support Enforcement~~ OCSE is authorized to:

- (1) Intercept or seize periodic or lump-sum payments from:
 - (A) A state or local agency, including unemployment compensation, worker's compensation, certain veteran's benefits; and
 - (B) Judgments, settlements, prizes, and lotteries.
- (2) Attach and seize assets of the obligated parent held in financial institutions;
- (3) Attach public and private retirement funds, including any union retirement fund and railroad retirement; and
- (4) Impose liens and, in appropriate cases, force the sale of property and distribute proceeds.

(Public Law 104-193; AT 98-07; Ark. Code Ann. § 9-14-208)

Administrative Review and Administrative Hearings

Upon receipt of the Notice of Lien and Levy, the noncustodial parent, or alternate account holder, may contact OCSE Central Office, Lien & Levy Section, to contest the validity of the freeze and seize, and ask for an Administrative Hearing. At this time, the Lien & Levy caseworker must review the record to determine whether the case was certified correctly, or whether the issues raised by the noncustodial parent, or alternate account owner, are valid. The Lien & Levy caseworker will review the case and financial institution account and determine whether the account is single or joint ownership, whether there has been a mistake of fact (i.e., the person who was FIDM certified does not owe child support), and to try and determine whether any money in the account is the property of the obligated parent. If the issues raised by the noncustodial parent, or alternate account owner, are resolved by the Lien & Levy caseworker, then necessary action will be taken in accordance with the resolution, and a letter outlining the resolution will be sent to the noncustodial parent, or alternate account owner.

Should the Lien & Levy caseworker be unable to resolve the issues or if the noncustodial parent, or alternate account owner, remain dissatisfied, then the FIDM case should be prepared for referral to the Appeals and Hearings section for an Administrative Hearing. Please see Chapter 9, "Financial Institution Data Match (FIDM) Hearing" concerning proper Administrative Hearing policy and procedure.

Worker's Compensation Withholding

Arkansas ~~Code law~~ law authorizes the withholding of Workers' Compensation benefits for child support. ~~This act allows the withholding of~~ Up to 25% of periodic payments or up to 50% of lump sum payments ~~for child support may be withheld.~~

(Ark. Code Ann. §§ 9-14-208, 11-9-10(c)(1))

~~Arkansas Code addresses Workers' Compensation stating, that~~

~~anytime an application is made for Workers' Compensation, an employer shall require the applicant for compensation to state whether he or she has child support obligations, if the obligations are current or past due, and to whom the obligations are payable. The employer shall forward a copy of the application to the Arkansas Office of Child Support Enforcement. The application shall also include the name of the Workers' Compensation carrier and the name of the employer.~~

Arkansas Code also authorizes a data match between Worker's Compensation Commission files and OCSE files on a monthly basis.

(Ark. Code Ann. § 11-9-115)

GARNISHMENT OF SALARIES, WAGES, AND OTHER INCOME SOURCES

Unpaid child support constitutes a judgment by operation of law and is subject to garnishment even in the absence of a court-ordered judgment on arrears. Arkansas ~~Code~~ law allows for the garnishment of wages until the total amount of child support judgment and costs are paid. Other sources of income, such as bank accounts, may also be garnished. The portion of VA benefits received in lieu of retired/retainer pay is subject to garnishment. ~~The investigator caseworker~~ shall make a diligent effort to locate all sources of money belonging to the NCP noncustodial parent and keep an accurate record of all attempts to locate money sources. Should the ~~investigator caseworker~~ locate a money source belonging to the NCP noncustodial parent and an arrearage exists, the ~~investigator caseworker~~ should consult with the appropriate OCSE attorney. ~~shall take~~ All necessary, proper, and reasonable steps to garnish said money source.

(Ark. Code Ann. § 9-14-234; IM 98-03 (Veteran's Benefits subject to garnishment))

NEW HIRE REPORTING

Arkansas ~~Code~~ law established the Office of New Hire Registry within the Arkansas Employment Security Department ~~(ESD) the Office of New Hire Registry~~. ~~On and after~~ Since October 1, 1997, employers ~~are~~ have been required to report information on newly-hired and returning employees to the New Hire Registry. ~~Employers must transmit the report by first class mail, magnetically, or electronically, or in any manner authorized by the Employment Security Department for inclusion in the State Registry. Each report must include the name, address, and social security number of the employee and the employer's name, address, and federal taxpayer identification number. OCSE will receive New Hire records of noncustodial parents in the child support caseload. A Notice of Income Withholding will be sent to the new employer, if appropriate, within two business days.~~

(Public Law 104-193; Ark. Code Ann. § 11-10-901 et. seq.)

~~The employer shall have the option of submitting a copy of the IRS Form W4, or an equivalent form, for the employee. If the employer submits the report by mail, the reporting date will be that~~

of the postmark. The report must be received no later than 20 days after the date the employee is hired. If the employer transmits the reports magnetically or electronically, the report must be transmitted in two monthly transmissions, with not less than 12 days nor more than 16 days apart.

If an employer employs workers in two or more states and chooses to transmit reports magnetically or electronically, he or she may comply with the reporting requirements by designating one state in which to report newly hired or returning employees. The employer must notify the Secretary of the Department of Health and Human Services in writing of the state where he or she will send reports.

WORK ACTIVITY REQUEST

In all cases ~~whereby~~ in which the custodian or children receive Transitional Employment Assistance (TEA) cash benefits and the ~~(NCP)~~ noncustodial parent owes overdue child support, Arkansas law requires the court ~~shall~~ to order the ~~NCP~~ noncustodial parent to pay the overdue amount according to a plan approved by the court. If the noncustodial parent ~~(NCP)~~ is not incapacitated, the court may order him or her to participate in work activities including, but not limited to, unsubsidized employment, subsidized private sector employment, subsidized public sector employment, or work activities (i.e., work associated with refurbishing publicly-assisted housing when sufficient private sector employment is not available).

(Ark. Code Ann. § 9-14-233 Amended by Act 1514 of 1999)

Noncustodial parents will be referred to Welfare-to-Work programs as appropriate and when such programs are available. Because not all noncustodial parents are eligible, participation in these programs is dependent upon approval from the Department of Human Services.

Automated Credit Reporting

~~When notice and opportunity to contest has been provided to the NCP,~~ eChild support debt information ~~shall~~ may be reported to Consumer Reporting Agencies (Credit Bureau). ~~The amount reported~~ To be reported, the amount owed must exceed \$1,000 and may not include instant debt amounts entered as judgments at the time the court issues a support order, so long as regular payments have been made on this debt type. **(Ark. Code Ann. § 9-14-209)**

Prior to disclosure of information to a consumer reporting agency, OCSE ~~shall~~ must send the ~~NCP~~ noncustodial parent a notice by regular mail to his or her last known address. The notice ~~shall~~ must inform the ~~NCP~~ noncustodial parent the amount of overdue support to be released, the procedures for contesting the accuracy of the information, and a statement that if he or she fails to contest the disclosure within seven calendar days of the mailing date on the notice, the information will be released.

Legal Actions To Enforce Support Orders

State Criminal Nonsupport

~~A NCP noncustodial parent will be considered to have committed the offense of nonsupport if he or she failed to provide support to a spouse who is physically or mentally infirm or financially dependent, his or her child who is less than 18 years old, or a dependent child who is physically or mentally infirm.~~

A noncustodial parent commits the offense of nonsupport if he/she fails to provide support to:

- His/her spouse who is physically or mentally infirm or financially dependant; or
- His/her legitimate child who is less than 18 years old; or
- His/her illegitimate child who is less than 18 years old and whose parentage has been determined in a previous judgment; or
- His/her dependant child who is physically or mentally infirm.

(Ark. Code Ann. § 5-26-401)

~~Nonsupport is a Class A misdemeanor, except that it is a Class D felony.~~ If the following conditions are applicable present, nonsupport may be charged as a Class D felony:

- ~~The NCP noncustodial parent~~ leaves Arkansas for 30 days while a current duty of support is unpaid, ~~providing his or her~~ if the reason for leaving was to avoid payment of support.
- ~~The NCP noncustodial parent~~ has previously been convicted of nonsupport, or the ~~NCP noncustodial parent~~ owes more than \$2,500 in past due child support, pursuant to a court order or by operation of law and the amount represents at least four months of past due child support.

Nonsupport is a Class C felony if the ~~NCP noncustodial parent~~ owes more than \$10,000 but less than \$25,000 in past due child support, pursuant to a court order or by operation of law.

Nonsupport is a Class B felony if the ~~NCP noncustodial parent~~ owes more than \$25,000 in past due child support, pursuant to a court order or by operation of law.

~~(ACA 9-14-210 Amended by Act 1484 of 1999~~ **Ark. Code Ann. § 5-26-401)**

The court may impose a fine upon conviction of nonsupport. The court may also direct that a bond, if posted, be forfeited upon conviction of nonsupport and the money forwarded to the person entitled to support. ~~The municipal district courts in counties having a population greater than 200,000 inhabitants shall~~ may issue a warrant for arrest upon the affidavits of a spouse or any person who is responsible for maintenance of a dependant child(ren) when nonsupport is alleged.

~~The IV-D OCSE~~ attorney may seek appointment as a “Special Deputy Prosecuting Attorney” by the prosecuting attorney for the judicial district for the limited purpose of prosecuting State criminal nonsupport charges.

~~The NCP may defend prosecution if just cause for failing to provide the support can be demonstrated.~~

Federal Criminal Nonsupport

Cases meeting the criteria for prosecution under the Child Support Recovery Act (CSRA) or the Deadbeat Parents Punishment Act of 1996 will be forwarded to the appropriate U.S. Attorney's office.

To be eligible for prosecution under CSRA the following conditions must exist (~~PL 102-521; PL 105-187~~):

- ~~The NCP noncustodial parent must live in a different state than the child.~~
- ~~The NCP noncustodial parent must be \$5,000 behind or no payment made for one year, since October 5, 1992.~~
- ~~The NCP noncustodial parent has the ability to pay, but chooses not to.~~

To be eligible for prosecution under the Deadbeat Parents Punishment Act of 1996, a person must:

- ~~Willfully fail to pay a support obligation for a child who lives in another state, if such obligation has remained unpaid for a period longer than one year or is greater than \$5,000;~~
- ~~Travels in interstate or foreign commerce with the intent to evade a support obligation, if such obligation has remained unpaid for a period longer than one year or is greater than \$5,000; or~~
- ~~Willfully fails to pay a support obligation for a child who lives in another state, if such obligation has remained unpaid for a period longer than two years or is greater than \$10,000.~~

~~The existence of a support obligation that was in effect for the time period charged in the indictment or information creates a rebuttable presumption that the obligor has the ability to pay the support obligation for that time period.~~

Failure to pay child support is also a federal crime and may be prosecuted as such pursuant to the Child Support Recovery Act and the Dead Beat Parents Punishment Act, codified at 18 U.S.C. § 228.

To be eligible for prosecution under 18 U.S.C. § 228 the following elements must be present:

- The willful failure to pay;
- A known child support obligation;
- Which has remained unpaid for longer than one year (or in the case of a felony prosecution, 2 years) or the amount of the past due obligation is greater than \$5,000 (or in the case of a felony prosecution, \$10,000);

- For a child who resides in another state.
- An additional basis exists for the prosecution of the failure to pay child support as a felony if the noncustodial parent has traveled in interstate or foreign commerce with the intent to evade the support obligation and the obligation has remained unpaid for a period of one year or longer or is greater than \$5,000.

Cases meeting the criteria for this type of prosecution may be forwarded to designated OCSE staff for review and referral, if appropriate, to the U.S. Attorney's Office for the federal district in which the custodial parent resides. The U.S. Attorney's Office will exercise its prosecutorial discretion in determining whether to accept or decline a case for prosecution and the level at which an accepted case will be prosecuted.

Posting Security, Bond, Or Guarantee To Secure Payment Of Overdue Support

OCSE must petition, and the court may require NCP's noncustodial parents to post security, bond or give some other guarantee to secure payment of overdue support. Advance notice must be provided to the NCP noncustodial parent regarding the delinquency of the support payment and the requirements for posting the security, bond or guarantee. OCSE must also inform the NCP noncustodial parent of his or her rights and the methods available for contesting the action. (45 C.F.R. § 303.104)

Recovery Cases

~~A Recovery case is one in which there is a support amount owed to Arkansas, another state, the non-TEA, or former TEA custodian. Recovery cases may be categorized as either TEA, IV-E Foster Care, non-TEA, former TEA Arkansas recovery cases, or as non-TEA out-of-state recovery cases.~~

~~The criteria for setting up an Arkansas TEA recovery case are as follows:~~

- ~~• The TEA case has closed and there are permanently assigned arrears owed on the IV-D OCSE case and unreimbursed grant, medical arrears or both are owed to the state.~~
- ~~• The custodian does not receive non-TEA services and there are TEA arrears permanently assigned to the state, medical arrears or both.~~

~~An out-of-state public assistance recovery case is established at the request of the initiating state, and collections are forwarded to that state.~~

~~If nonpublic assistance arrears exist, OCSE will continue to collect the arrears, unless the applicant requests closure.~~

~~An out-of-state non-TEA recovery case is established at the request of the initiating State and~~

~~collections, minus appropriate cost recovery, are sent to the initiating state.~~

~~Recovery cases do not accrue arrears. Continuation of payments after a child becomes emancipated is discussed later in this chapter.~~

ENFORCING MEDICAL SUPPORT

OCSE must enforce medical support following the same program standards outlined in this chapter for enforcing child support. If the ~~NCP~~ noncustodial parent does not secure health insurance within 30 calendar days of the file mark date on the court order, the ~~investigator caseworker~~ must take enforcement action to secure medical support. The ~~investigator caseworker~~ must request employers and other groups offering health insurance coverage that is being enforced by OCSE, as well as the Medicaid agency where appropriate, to notify ~~Office of Child Support Enforcement~~ OCSE of lapses in coverage.

If medical support is ordered to be paid by the noncustodial parent but the custodial parent does not wish to pursue medical coverage by the noncustodial parent and the custodial parent can prove that the dependant has adequate medical coverage, OCSE will not pursue medical support to be provided by the noncustodial parent.

OCSE will not initiate or pursue legal action to obtain judgment for medical bills not covered by medical insurance.

Income Withholding For Health Care Coverage

~~Arkansas Code authorizes income withholding for health care coverage. All decrees and orders that direct the NCP noncustodial parent to provide and maintain health care coverage for any child shall include a provision directing the employer to deduct an amount sufficient to provide for premiums for health care coverage offered by the employer. OCSE is authorized to garnish wages, salary or other employment income for costs of health services provided to a child. (ACA 9-14-502; ACA 506-515) (ACA 9-14-501 et. seq.)~~

~~Income may also be garnished to recover payment from a third party for the costs of medical services to the child if the NCP noncustodial parent received the payment and failed to reimburse the service provider, the Medicaid agency, or OCSE, as appropriate.~~

~~Any NCP noncustodial parent ordered to provide medical support and maintain health care coverage after March 6, 1991, is subject to income withholding for health care coverage. The order must contain the standard language requiring the employer to deduct premiums and enroll the child(ren) in the health care plan.~~

~~Income withholding for health care coverage can be implemented in cases entered on or before March 6, 1991, if health insurance was ordered and there was no withholding language, providing notice requirements are followed.~~

Prior to notification to the employer, An Income Withholding Hearing Notice (OCSE FEN 06, See Forms Appendix) must be sent to the NCP noncustodial parent at the last known address as contained in the records of the court clerk. The NCP noncustodial parent may contest the withholding based on a mistake of fact. The NCP noncustodial parent will have 30 days from the date of the notice to present his case to the court or its representative. Failure to contest withholding within 15 days of the mail date of the income withholding notice will result in the employer being notified to begin withholding.

~~Medical Income Withholding~~

Orders effective after March 6, 1991 must contain a provision allowing for income withholding for medical support. Orders for health insurance on or before March 6, 1991, do not have to contain that provision to be subject to withholding. Orders for health insurance effective after March 6, 1991, that do not contain a provision allowing income withholding for medical support are not subject to withholding. The next step for these cases would be referral to legal for contempt.

~~(ACA 9-14-502)~~

~~Enforcing Other Provisions Of The Medical Support Order~~

Medical support orders may provide for more than the cost of health insurance premiums. A specified dollar amount for medical support expressed in monthly increments or a lump sum amount will be enforced.

If it is found by the court that the accused is the father of the child, the court shall render judgment against him for the lying in expenses in favor of the mother, person, or agency who incurred the lying in expenses, if claimed. Bills and invoices for pregnancy and child birth expenses and paternity testing are admissible as evidence in the chancery court or juvenile division circuit court thereof without third party foundation testimony if such bills or invoices are regular on their face. Such bills or invoices shall constitute *prima facie* (without proof of reasoning) *evidence* of amounts incurred for such services or for testing on behalf of the child.

~~(ACA 9-10-110)~~

~~Qualified Medical Child Support Order~~

Some employers are 'self insured' under the terms of the Employee Retirement Income Security Act (ERISA). ERISA employers may require a Qualified Medical Child Support Order (QMCSO) before the child can be enrolled in their health plan. The investigator should contact the employer to determine if the employer is an ERISA employer before referring the case to legal for a medical support order. The QMCSO is a separate order based on the order for medical support but contains specific information regarding the child and the NCP noncustodial parent /employee. When the NCP noncustodial parent changes jobs, contact his or her new employer to determine if a new QMCSO is required.

In all cases where either parent is ordered to provide medical support and child support enforcement services are provided by OCSE, the National Medical Support Notice (NMSN) will be used as required by federal regulations 45 C.F.R. § 303.32 and 29 C.F.R. § 2590.609-2 as they existed on March 27, 2001.

The NMSN must be sent to the employer within two business days of receiving employment information or matching with employer information contained the New Hire Directory.

The Consumer Credit Protection Act (CCPA) limits must apply to the combined total withheld for both child support and medical coverage. (See Chapter 5, Computing Amount for Withholding) for a discussion of CCPA limits). Income withholding for child support must take priority over the deduction for health care premiums.

OCSE will notify the employer when there is no longer a current order for medical support in effect for which the agency is responsible.

The employer and the health care administrator must follow state law to implement income withholding for health care coverage premiums, enrolling the child(ren), and providing information regarding the policy to the family.

CONTINUATION OF PAYMENTS AFTER CHILD'S EMANCIPATION

OCSE will continue to pursue collection of unpaid child support on non-TEA and TEA cases after the child reaches majority, marries, dies, or is otherwise emancipated if a judgment or child support arrearage exists, until such time as the judgment or arrearage has been satisfied. OCSE will continue collection efforts until a written request is made by the applicant for services to close the case, or until all arrears are paid, or there is an administrative determination that the debt is un-collectible, or the case meets other federal case closure criteria. If there are arrears that have been assigned to the State, OCSE will continue collection efforts until all child support judgments owed to the State are paid in full.

The courts may provide for the payment of support beyond the 18th birthday of a child to address educational needs when the child's birthday falls prior to graduation from high school, so long as such support is conditional on the child remaining in school. The court may also provide for the continuation of support for a person suffering from a handicapping condition which affects the ability of the person to live independently from the custodial parent.

(Ark. Code Ann. §§ 9-14-109(a)(2)(3), 9-12-312(a)(4))

All enforcement techniques apply to collection of the past due amount of support, including adjudication of arrears, garnishment, execution, wage withholding, contempt, or liens on property. Federal and State income taxes may be intercepted if the case is TEA and the arrears are owed to the State. State income tax refunds may be intercepted to recover TEA and non-TEA arrears.

(Ark. Code Ann. §§ 9-14-235, 9-14-236)

The ~~IV-D~~ OCSE agency will accept Recovery cases from another ~~IV-D~~ OCSE agency or by application from the custodian on behalf of a child age 22 or younger who was the subject of a child support order up to age 22. If the child is age 23 or older, OCSE can accept the case only if there is a court-ordered judgment and arrears accrued after March 29, 1986.

REDIRECTING CHILD SUPPORT TO THE PHYSICAL CUSTODIAN

~~OCSE must redirect child support payments to the physical custodian in IV-D cases. The natural or adoptive parent, guardian, person other than the party to the child support order, or agency who has custody of a child for eight consecutive weeks or longer (other than court ordered visitation) may give notice to the Clerk of Court in writing to redirect child support to the present custodian. The custodian who left the child for more than eight consecutive weeks is presumed to have notice of the redirection of support payments. However, the law requires an effort be made to notify the parents at the last known address. If a redirection is warranted, OCSE will advise or assist the physical custodian in the preparation of a notice that contains the following information:~~

~~(ACA 9-14-234)~~

- ~~1) Style of the case and court docket number.~~
- ~~2) Name and address of any parents, guardians, or other caretakers.~~
- ~~3) Name of child(ren) for whom support is owed.~~
- ~~4) Name and address of present physical custodian~~
- ~~5) Statement from the present physical custodian that child has resided with him or her for eight consecutive weeks or more, other than court ordered visitations.~~
- ~~6) A statement that the person named in 2) above, will have ten days to file a written objection with the Clerk of Court.~~
- ~~7) An affidavit from the physical custodian that a copy of the notice has been provided to the person or persons named in 2) above by personal service or by certified mail (restricted delivery, return receipt requested) and to OCSE.~~

~~Notification is sufficient under this law if mailed to the parent, guardian or other caretaker at either the last known address provided to the court or an address verified by the physical custodian. Responsible local OCSE field office staff must wait 10 days following receipt of the notice to allow for any objections to be filed with the Clerk. If no objections are filed within the time periods, as verified by the Clerk, OCSE shall provide written notification to the~~

~~Clearinghouse to redirect payments as requested in the original notice and copy the Clerk on the request. Arrears shall be prorated giving each physical custodian the arrears owed to them for the period of time they actually had custody, unless the court finds otherwise.~~

The natural or adoptive parent, guardian, person other than the party to the child support order, or agency who has custody of a child for eight consecutive weeks or longer, other than court-ordered visitation, may seek to redirect child support. In situations such as this, the physical custodian has the responsibility for giving notice to the clerk of the court to redirect the child support and become the payee of the obligation. When a case such as this is initially opened with OCSE, the customer must be notified of the requirement and referred to Ark. Code Ann. § 9-14-234(d)-(g). A copy of Act 1180 of 1995, which includes the relevant requirement, may be provided to the customer for his or her convenience.

The physical custodian is responsible for giving written notice to the clerk of court, any parent, guardian, or other caretaker, and to OCSE. Any objection to the notice of redirection must be filed with the clerk of court within 10 days of the objecting party's receipt of the notice. Notice must be given by personal service or by certified mail, restricted delivery, return receipt requested. The physical custodian should be directed to contact OCSE to advise the caseworker of the date on which the notice was delivered to each person.

If OCSE receives notice of redirection, and after the 10-day objection period expires, it is the responsibility of the OCSE caseworker to confirm with the appropriate clerk of court whether an objection to the redirection notice has been filed.

If there is not an objection by any party within 10 days of receipt of notice, the caseworker may redirect the ordered support to the physical custodian.

If there is an objection by any party within 10 days of receipt of notice, the case should be referred to the assigned attorney so that appropriate pleadings may be filed to request redirection of child support payments to the physical custodian.

In non IV-D cases, the SDU will inform the caller that they need to contact private legal counsel for advice and service or apply for OCSE services.

It will be encouraged that the physical custodian follow the above steps to redirect child support in order to save the cost of going to court. However, if all parties can be served, OCSE may take the case to court to redirect the child support.

RECOVERY OF CHILD SUPPORT AFTER THE LAST CHILD REACHES AGE 23

If all arrears have been reduced to judgment by a court on or before the date on which the youngest child attains the age of 23, OCSE will continue collection efforts until a written request

is made by the applicant for services to close the case, or until all arrears are paid, or there is an administrative determination that the debt is un-collectible, or the case meets other federal case closure criteria. If there are arrears that have been assigned to the state, OCSE will continue collection efforts until all child support judgments owed to the state are paid in full.

Any arrears that have not been reduced to judgment by the time the youngest child attains the age of 23 are subject to the statute of limitations regarding collection of child support. OCSE will not take enforcement action to collect support arrears that may be barred by the statute of limitation.

Recovery of Child Support in Interstate Cases

In cases in which the order was entered in another state, the statute of limitations of the state that issued the order or the Arkansas statute of limitations, whichever is longer, will apply and control how long arrears may be collected. In cases in which the Arkansas statute of limitation would be a bar to collection of the arrears, the law of the issuing state must be reviewed to determine if collection may continue. If collection of the child support arrears is not possible under Arkansas law or the law of the issuing state, the caseworker will send a 60-day closure notice to the applicant for services and the case will be closed.

Chapter 6 MODIFICATION

REVIEW AND ADJUSTMENT

Child support obligations may be reviewed and adjusted, if appropriate, once every 36 months at the request of either parent or a state, if an assignment of rights exist. There must be a change in the ~~NCP~~ noncustodial parent's gross income in an amount equal to or more than 20% or more than \$100 per month in order to petition the court for modification of the obligated child support amount based on the Family Support Chart. The order must be an Arkansas order or an order that Arkansas can assume continuing exclusive jurisdiction (CEJ) to modify.

If an assignment of rights exists, either party or a state child support agency may request review of a child/~~medical~~ support order more often than once every 36 months if a significant change in circumstances exists. The burden of proof is on the requesting party. A review more often than once every 36 months may be appropriate if one or more of the following circumstances exist:

- Support was set at the chart minimum because the ~~NCP~~ noncustodial parent was unemployed or under-employed at the time, and new evidence shows that ~~the status has changed to~~ he or she is employed or more gainfully employed.
- The ~~NCP~~ noncustodial parent is unemployed through no fault of his own for the proceeding six months and unemployment is likely to continue for an extended period of time.
- The ~~NCP~~ noncustodial parent becomes permanently disabled which is medically verified by a doctor's statement and/or ~~Social Security Insurance~~ Supplemental Security Income (SSI) benefits.
- The noncustodial parent has provided income information to OCSE at the request of the custodial parent and otherwise meets the criteria for a review as outlined in Ark. Code Ann. § 9-14-107.
- The oldest child will turn 18 or otherwise emancipates and one of the parties requests review of the support amount for the remaining children. (OCSE Memo 03-010)

Noncustodial parents may apply for ~~IV-D~~ OCSE services ~~and only to request review and adjustment services and request that payment be made through the clearinghouse.~~ The noncustodial parent will then make all payments through the Clearinghouse.
(Public Law 104-193; Ark. Code Ann. § 9-14-107)

Notices

Notice of the right to request review and adjustment will be provided to both parents not less than once every three years. Parents requesting a review must sign the Request for Review and Adjustment form (OCSE-REV-ADJ-01). The non-requesting parent will receive notification that a review will be conducted. Both parents will receive a Notice of Review Determination (~~OCSE-REVDET-01~~) upon completion of the review. OCSE will follow State law with regard to the notice required to modify an order. If OCSE determines there is no adjustment needed and the parent(s) ~~want~~ with to pursue the issue in court, they may do so on their own or with the help of a private attorney.

Review And Adjustment Of Interstate Cases

Interstate cases will be reviewed and adjusted upon the request of another state or either parent in another state only if the order is an Arkansas order, or if Arkansas can assume continuing exclusive jurisdiction. (Ark. Code Ann. § 9-17-205)

Adjustment Of Child Support Obligations Remaining When The Obligation For One Child Expires

The child support amount shall be automatically reduced for the remaining children in a support order when the support amount for one child ends. The support amount must be recalculated based on the most recent version of the Family Support Chart. ~~The obligor shall provide notice to the custodial parent, physical custodian, clerk's office, employer (if withholding is in effect) and OCSE within 10 days of the termination of the duty to support. The Obligor, custodial parent, physical custodian or OCSE may file a motion with the court within 30 days subsequent to the expiration of the 10 day period and ask the court to determine the new support amount.~~ Administrative Rule 10 requires that net income be applied to the chart when determining the support amount. If the income amount is not listed in the current support order, the new support amount must be determined by the court. If the most recent order was entered prior to the adoption of the chart or if the court deviated from the chart when setting the amount of support, the new support amount will be decided by a court. (Ark. Code Ann. § 9-14-237)

The three-year limit on requests for review and adjustment does not apply in these cases unless the support amount was reviewed within the last three years and the issue of adjusting the support amount for the remaining minor children was addressed at that time.

Termination Of Support for Home Schooled Children

Parents who wish to home school their children are required to file a Notice of Intent to Home School (Ark. Code Ann. § 6-15-503) with the local school district at the beginning of each school year. The notice will indicate the grade level completed the last school year and the grade level the student is in for the current school year. Parents determine the grade level of the home-schooled child. The State Department of Education (DOE) does not monitor the home school setting or the progress of the child. Home schooling is unaccredited work and does not lead to a high school diploma but is a legally recognized equivalent for school attendance. The child support obligation for the home schooled child will continue until the child's eighteenth birthday or the date the child should have graduated from high school if enrolled in a traditional school setting.
(Ark. Code Ann. § 9-14-237)

Termination of a Support Obligation

An obligor's duty to pay child support for a child shall automatically terminate by operation of law when the child reaches 18 years of age ~~and~~ or should have graduated from high school, whichever is later, or when the child is emancipated by a court of competent jurisdiction, marries, or dies unless the court order for child support specifically extends child support after such circumstances. It is the policy of OCSE to cease wage withholding for child support when one of the above conditions is met, unless an arrearage exists. The obligation ceases when the custodian dies or the parents marry each other. **(Ark. Code Ann. § 9-14-237(a)(1))**

~~If there are children remaining after the obligation for one child ends, OCSE will provide notice to both parties 90 days prior to the 18th birthday of the oldest child that the circumstances may warrant a change in the support amount, thereby affecting the status of the withholding due for the remaining children. It will then become incumbent on the parties to affect the appropriate changes.~~
(ACA 9-14-240)

~~If a judgment or child support arrearage exists, the NCP noncustodial parent shall continue to pay the amount set as child support or an amount set by a court based on the application of the guidelines for child support under the Family Support Chart until such time as the judgment or arrearage has been satisfied.~~

VISITATION AND THE ADJUSTMENT OF SUPPORT

State law provides that the noncustodial parent is to provide written notification to the clerk of court within 10 calendar days when abatement or reduction of child support should occur due to extended visitation. (Ark. Code Ann. § 9-14-106(a)(1)(D).) The noncustodial parent is to provide copies of this notice to his/her employer, if income withholding is in effect, and the Office of Child Support Enforcement, if applicable. The law specifically provides that it is the responsibility of the noncustodial parent to provide this notification.

It is the responsibility of the noncustodial parent to inform the employer to abate or reduce child support in accordance with the court order and when to resume the payment of child support. OCSE is not responsible for contacting the employer to instruct that the changes be made or to send a wage withholding.

The law does not require that the noncustodial parent is responsible to notify the custodial parent of abatement or reduction of child support due to the visitation. However, in order to insure that arrearage balances remain accurate, if a notice is received indicating that the child support obligation should be reduced for the period of the visitation, the caseworker should verify with the custodial parent that the noncustodial parent has had custody of the dependant(s) for the time specified. Any necessary adjustments to the system should then be made in accordance with the court order. If it is revealed that the noncustodial parent did not have the dependant(s) for the time reported, any failure to pay the correct amount of support may be considered in a future contempt action.

INCREASE IN SUPPORT

As required by Ark. Code Ann. § 9-14-107 and if provided by the court order, OCSE will, upon receipt of notice of proof of income, review and petition for modification of child support, if appropriate, within 30 days or receipt of the information evidencing an increase in the noncustodial parent's income of 20% or \$100 per month.

The custodial parent must initiate the request for information. Any other request from either party for a review or modification of the support amount is subject to OCSE procedures for Review and Adjustment.

(Ark. Code Ann. § 9-14-107)

Chapter 7

CASE CLOSURE

CASE CLOSURE CRITERIA

Federal regulations and State policy outline strict guidelines for determining when it is appropriate to close a child support case. ACTS Arkansas Child Support Information System (ARCSIS) closure codes are tied to each of the federal criteria. If the circumstances of the case do not match one of the closure criteria, the case must remain open. The following are the only acceptable reasons for closing a case:

- The non-TEA applicant for child support services requests closure in writing and there is no assignment to the State of medical support or of arrearages that accrued under a support order. Use closure code WQ.
- No current support order exists and either no arrears are owed to the State or such arrears are less than \$500 and there has been no payment in the preceding 90 days. OCSE may close a case meeting this criteria, but closure is not required. The case will remain open if a wage assignment is in place or the case qualifies for certification to State or Federal income tax offset programs. The caseworker will consider the combined balance of all debt types still outstanding in each case when deciding if the case meets the criteria for automatic certification to the income tax offset programs. When closing, use closure code CE.
- Child support has been abated and arrears are less than \$500 or the order is unenforceable under State law. Use closure code AC.
- The noncustodial parent or putative father is deceased and there is no estate, verified by probate court records. Use closure code EZ.
- The putative father has been excluded by genetic testing, and the court has determined that paternity should not be established or support should not be paid. In TEA cases, if the putative father has been excluded, the case will remain open until the Department of Human Services (DHS) sends a new referral for a different putative father. When closing, use closure code EP.
- The putative father is unknown and cannot be identified. If the putative father is unknown, the ~~IV-D~~ agency caseworker must interview the custodial parent in person or by phone in an effort to identify him. Use closure code UN.
- Best interest of the child. The IV-D agency had determined that to establish paternity would not be in the best interest of the child in a case involving incest, forcible rape, or in any case where adoption proceedings are pending. Use closure code BI.

- Cases with lost noncustodial parties can be closed if all methods of locating the ~~NCP noncustodial parent~~ have been exhausted for **three** consecutive years when **sufficient information for automated locate is known**. Attempts to locate must be repeated at least quarterly including interviewing the custodian. The case must be reopened if new information becomes available. Use closure code LX.
- Cases with lost noncustodial parties can be closed if all methods of locating the noncustodial parent have been exhausted for **one** year when **sufficient information for automated locate is not known**. Attempts to locate must be repeated at least quarterly including interviewing the custodian. The case must be reopened if new information becomes available. Use closure code LZ.
- ~~NCP Noncustodial parent~~ will be institutionalized or incarcerated for the duration of the child's minority. Use closure code XJ.
- ~~NCP Noncustodial parent~~ has medically verified total and permanent disability and has no income or assets with which to pay support. Use closure code XI.
- ~~NCP Noncustodial parent~~ is a citizen of a foreign country with which Arkansas has no reciprocity, and the ~~NCP noncustodial parent~~ does not work for the U. S. government or a company whose headquarters are in the ~~U.S.~~ United States. Use closure code WF.
- The case was open for ~~PLS~~ State Parent Locate Services only and the location services have been provided. Use closure code LY.
- **Non-TEA and former TEA cases** may be closed if the ~~IV-D~~ OCSE agency is unable to contact the ~~custodial parent~~ applicant for services within a 60 calendar day period despite an attempt by at least one letter sent by first class mail to the service recipient's last known address. If efforts to locate the service recipient have failed after 60 calendar days, send a 60-day closure notice to the last known address (120 days total). Medicaid, TEA, and Food-Stamp screens must be checked prior to closing the case. When closing, use closure code WT.
- **Non-TEA cases** can be closed for non-cooperation upon proper notice to the recipient of services, provided the ~~IV-D agency~~ OCSE has done everything possible and, due to the non-cooperation, legal action is not possible. (TEA, mandatory Medicaid, and foster care cases cannot be closed due to non-cooperation.) When closing, use closure code N9.
- There has been a finding of "Good Cause," and the State or local IV-A, IV-E, or Medicaid agency has determined that support enforcement may not proceed without risk of harm to the child or custodian. Use closure code GG.
- ~~The IV-D agency~~ OCSE documents failure by the initiating state to take an action ~~which~~ that is essential for the next step in providing service. Use closure code IX.

(45 C.F.R. § 303.11)

Notice Of Case Closure

The caseworker must notify the ~~eustodian~~ applicant for services in writing 60 days prior to the closure date of the intent to close a case. There are three exceptions:

- The Non-TEA recipient of child support services requests closure and there is no assignment of Medical support.
- The case was opened for ~~SPLS~~ State Parent Locator Services only and the location services have been provided;
- The IV-A, IV-E, or Medicaid worker has made a “Good Cause” determination.

Case Closure May Be Prohibited Under Certain Circumstances

A case cannot be closed if the ~~eustodian~~ applicant for services can provide information that would aid in establishing or enforcing a court order. Cases that are closed after diligent efforts to locate prove to be unsuccessful must be reopened at any time the ~~eustodian~~ applicant for services can provide new information or when circumstances change that would allow for successful resolution of the case.

A case cannot be closed because the ~~IV-D~~ OCSE agency has attempted all legal remedies available without success. When enforcement attempts fail, the ~~investigator~~ caseworker must review the file to determine the reason enforcement has failed and when taking the next action will be appropriate. The attorney should review the case to determine when the next appropriate legal action may be taken. (45 C.F.R. § 303.11)

The contract signed by the non-TEA applicant for services gives OCSE the authority to keep a case open until the fee balance is paid. The fee balance must be paid before the case closes. The applicant can either write a check for the balance or leave the case open until the balance is paid.

Closing Cases When Legal Action Is Pending

If legal action is pending at the time the applicant requests closure, OCSE has two options dependent on direction from the applicant for services:

- Dismiss all action without prejudice.
- Substitute the applicant as Plaintiff or moving party and withdraw.

Both parties must be advised by the attorney of their rights and responsibilities in writing at the time of closure with regard to where their case stands in the legal process and the ramifications of stopping the legal action at that point. OCSE will withdraw from the case so that the parties can continue on their own if they so desire.

Closure For Interstate Cases

Federal regulations authorize the responding state to close an interstate case when it documents a failure on the part of the initiating state to take an action ~~which~~ that is essential for the next step in providing services. One exception involves income withholding. If a state using authority under its UIFSA statute sends a withholding notice directly to an employer in another state, it cannot be considered non-cooperation and a rationale for case closure by the employer's state which is otherwise processing an interstate case for the state that sends the direct withholding.

When making a decision regarding whether or not an initiating state has failed to take an action that is essential to the next step in providing services, take into consideration the requirements and time frames outlined in federal regulations.

A 60-day closure notice must be sent to the initiating state before a case can be closed. ~~We are~~ OCSE is not required to send a closure notice to the custodial parent. It is not the responding state's responsibility to be in direct contact with the custodial parent in the initiating state.

The initiating state must be notified within 10 working days of locating the ~~NCP noncustodial parent~~ parent in another state. The case may not be closed until the initiating state has directed the responding state to either return the forms or forward the case to the ~~NCP noncustodial parent's~~ new location. The case may be closed only after notification that receipt of the transferred case has been acknowledged.

Interstate cases cannot be closed unless one of the criteria for closure is met. The ~~investigator caseworker~~ is responsible for ensuring that the address for future payments is correct when closing an interstate case. If the order is from another state, ~~make~~ two attempts to obtain the address must be made. The second attempt should be in writing advising the initiating state that money may be returned to the ~~NCP noncustodial parent~~ if a good address is not provided. Collections based on Arkansas orders will be retained until a good address is provided.

Closing Interstate Cases When The Applicant For Services' Address Is Unknown

Arkansas As The Initiating State

Federal regulations allow OCSE to close non-TEA and former TEA cases if OCSE is unable to contact the recipient of services within 60 calendar days, despite an attempt of at least one letter sent by first class mail to the last known address. If efforts to locate the service recipient have failed after 60 calendar days, a 60-day closure notice must be sent to the last known address (120 days total). Medicaid, TEA and Food-Stamp screens must be checked for a new address prior to closing the case. The caseworker must notify the responding state of the closure and request the responding state to close its case. The case will remain open if contact is reestablished with the recipient of services within the 60-day time frame.

Arkansas As The Responding State

If Arkansas is the responding state and is unable to take further action in the case because the initiating state has failed to take an action essential for the next step in providing services, the case can be closed in accordance with federal regulations (45 CFR 303.11(b)(12)). The failure by the initiating state to take the essential action must be narrated in the case file. A 60-day closure notice is sent to the initiating state informing them of the intent to close the case. Within 30 calendar days, the initiating state must provide OCSE with any requested information or notify OCSE when information will be provided in order for the case to remain open. These two time periods run concurrently. If the initiating state responds that it has closed its case due to an inability to locate the custodial parent, OCSE will close its case immediately.

(45 C.F.R. § 303.11)

Chapter 8 FINANCIAL

The Arkansas Office of Child Support Enforcement (OCSE) Clearinghouse ~~shall~~ receives, posts, and distributes child/medical support payments for the following cases:

- Transitional Employment Assistance (TEA)
- Non-TEA
- IV-E Foster Care
- Non-IV-E Foster Care
- Medicaid
- ~~IV-D~~ OCSE Interstate
- ~~Monitoring~~ Non IV-D (Payment Processing)

~~The Arkansas Child Support Clearinghouse is a contractual extension of the OCSE Collections and Distribution Section.~~ In all cases brought pursuant to Title IV-D of the Social Security Act, the court ~~shall order~~ must direct that all payments be made through the Arkansas Child Support Clearinghouse. The Clearinghouse also processes payments received on behalf of former OCSE customers and payments withheld from the wages of noncustodial parents in cases not being enforced under Title IV-D of the Social Security Act.

COST/FEES FOR SERVICE

All orders, entered or modified after January 1, 1998, directing payments through the registry of the court or through the Arkansas Child Support Clearinghouse ~~shall~~ must set forth a fee to be paid by the noncustodial parent (NCP) or obligated spouse in the amount of ~~\$36 per year, or \$9.00 per quarter as set forth by Arkansas law,~~ until no children remain minor and the support obligation is extinguished and any arrears are completely satisfied. ~~The fee shall be collected from the NCP or obligated spouse at the time of the first support payment, and during the anniversary month of the entry or the order each year thereafter.~~

Payments made for this fee ~~shall~~ may be made on an annual or quarterly basis in the form of a check or money order payable to OCSE or such other legal tender which OCSE may accept. This fee payment ~~shall be~~ is separate and apart from the support payment, and under no circumstances ~~shall~~ will the support payment be reduced to fulfill the payment of this fee.

If the ~~NCP~~ noncustodial parent fails to pay the annual fee within 90 days, OCSE may notify the ~~payor employer~~ under the order of income withholding for child support to withhold the fee in addition to any child support. If the noncustodial parent is self- or unemployed and has failed to pay the annual fee, the case may be referred for other legal action.

~~In counties where an annual fee is collected and the court grants at least two thousand five hundred (2,500) divorces each year, the court may require that the initial annual fee be paid by the NCP or obligated spouse prior to the filing of the order.~~

In all non-TEA ~~IV-D~~ OCSE cases, costs are charged to an applicant ~~of~~ for ~~IV-D~~ OCSE services. The current rate of deduction is the lesser of the actual costs assessed or 13% of the amount collected each month.

Note: Pursuant to federal regulations, no fees may be charged in any Title XIX (Medicaid) cases. This includes all Medicaid categories, regardless of whether OCSE receives a referral from DHS. If the child is the only recipient of Medicaid or the child receives SSI and Medicaid, OCSE will provide child support services upon the request of the custodian, free of any charges. An application fee cannot be charged. Cost previously charged may not be recovered while the family receives TEA or Medicaid.

Fees or ~~the~~ costs for services including but not limited to legal fees noted below, generated because of a breach by the ~~NCP~~ noncustodial parent of an agreement or a court order, will be incorporated into the request for relief and reduced to judgment in favor of OCSE against the ~~NCP~~ noncustodial parent. (Ark. Code Ann. § 9-14-212(d)). See below for the cost schedule.

Application Fee – Application fee per ~~NCP~~ noncustodial parent is \$25. ~~The application fee~~ This shall be is a flat fee that ~~will be~~ is paid by the applicant at the time the application of assistance is submitted. The application fee is nonrefundable and nonreimbursable.

Base Cost - Base cost ~~includes overhead costs and activities other than legal services is \$18.00 per month~~ is \$18 per month and includes overhead costs and activities other than legal services. This cost is for full OCSE services cases and is not reimbursable.

NOTE: If a noncustodial parent opens a child support case ~~and makes a request to send his or her~~ only for the purpose of making payments to the Clearinghouse, the case will be set up as a monitoring payment processing case. The \$18 base cost will not be assessed against the custodian.

Legal Action

- Initiation of Legal Action, \$80. Assessed when a complaint, motion or petition with summons, order and citation, affidavit and arrest warrant or notice/order of hearing is prepared and forwarded to the clerk for processing ~~in all cases (child support, paternity, interstate, criminal nonsupport and contempt).~~
- Out-of-Court Settlement, \$100. Assessed when ~~the initiated~~ court action is resolved prior to court appearance in all cases.

- In-Court Settlement, \$150. Assessed when ~~the initiated~~ court action is resolved at the court appearance without trial.
- Trial \$250. Assessed when ~~the initiated~~ court action is resolved by the court after hearing ~~is held~~.

Paternity Testing – The cost of paternity testing will be paid by the applicant for services if the putative father is excluded.
(Ark. Code Ann. § 9-10-103(b)(4))

Other

- Miscellaneous, \$100 per hour. Assessed to reflect legal preparation such as research, interviewing witnesses, preparation of extraordinary pleadings or legal briefs, preliminary appearances (pre-trial conference, arraignment) or pre-trial discovery (interrogatories, requests, depositions)
- Actual Costs will be assessed based on actual costs incurred by the agency for monies expended for transcripts of trials or depositions, HLA chemical tests, DNA Genetic Tests, IRS full collection process, filing fees, and all other court costs. Service of process fees will be charged to the ~~NCP~~ noncustodial parent in an amount equal to the actual cost or ~~\$35~~ \$50, whichever is less.
- Financial Institution Levy Fee, \$35. This fee will be charged for each levy ~~which~~ that results in a monetary recovery from a participating financial institution.
- Insurance Claim Levy Fee, \$100. This fee will be charged for each levy that results in a monetary recovery from an insurance claim.

If unrecovered costs exist at the time a request for case closure is submitted, ~~the Office of Child Support Enforcement~~ OCSE may ~~exercise the option to~~ continue to collect and distribute support on the applicant's behalf and recover costs from collections required at the rate specified by the fee schedule.

~~OCSE or its authorized contractors~~ may petition the court for recovery of any existing costs for child support services and court costs from the ~~NCP~~ noncustodial parent.

Costs recovered from the ~~NCP~~ noncustodial parent will be credited to the costs assessed on the case. Amounts recovered from the noncustodial parent in excess of existing costs will be paid to the applicant ~~to the extent~~ if costs have been deducted from child support payments ~~distributed~~ disbursed to the custodian.

(Ark. Code Ann. § 9-14-212(d))

Cost Recovery

OCSE will use quarterly billing statements in an effort to increase the collection of court costs and other fees charged to the noncustodial parent. The noncustodial parent may make quarterly payments on the total fee balance.

The statements will include the balance owed for fees previously assessed, including court costs and genetic testing fees, that have not been paid, an itemized list of all fees assessed during the quarter, and payments received during the previous three months. Fee bills will be sent in the following cases:

- The case must be an open OCSE or active payment processing case.
- The case must have a positive fee balance due.
- The member must be the noncustodial parent or putative father.
- For full OCSE services cases, the member cannot be in bankruptcy. Payment processing cases where the noncustodial parent is in bankruptcy will still be billed for fees.
- For payment processing cases, the administrative fee will not be assessed in the year that the case is entered in the system.

Debt Collection

The OCSE Debt Collection Section concentrates on the collection of administrative fees and costs that have been unpaid for 90 days or more.

OCSE will make collection efforts in situations where wage withholding is not possible. Those efforts may include, but are not limited to:

- Seeking judgment for past due amounts
- Garnishing wages or bank accounts
- State income tax refund offset
- Reporting to the Credit Bureau

DISTRIBUTION

DISTRIBUTION IN NON-IV-D CASES

~~The Clearinghouse receives and posts payments daily. At the end of each day, payments are transmitted to OCSE computers electronically.~~

~~(P.L. 104-193)~~

All child support orders paid by income withholding ~~or otherwise~~ or directly to the Clearinghouse by the obligor ~~will be collected and distributed~~ are disbursed through the Arkansas Child Support Clearinghouse. ~~OCSE~~ The Clearinghouse shall be ~~is~~ responsible for receipting, recording, and promptly disbursing amounts collected. ~~OCSE~~ The Clearinghouse

~~staff shall~~ responds to requests for information on the status of support payments, ~~will~~ update the payee's address as appropriate and provide a payment history upon request to either party, their attorneys or the court.

Payments received by OCSE ~~will be~~ are disbursed to the resident parent, legal guardian, or caretaker relative having custody of or responsibility for the child. ~~Payments are disbursed daily.~~
(AT 97-17)

~~If future support payments are collected, those payments will not be applied to future months unless amounts have been collected which fully satisfy the current support obligation.~~

~~Non-IV-D~~ Payments are processed nightly and disbursed the next day. Checks are printed, verified, signed, and mailed within ~~48 hours~~ two business days of the receipt and identification of a payment.

Amounts collected in ~~IV-D~~ OCSE cases, with the exception of Federal income tax refund offsets, ~~shall be~~ are distributed first to the required support obligation for due in the month in which the support payment was collected. If ~~any~~ amounts are collected that are in excess of ~~such the~~ amount due that month, the excess amounts ~~shall be~~ is treated as payment on the required support obligation ~~which was for previous months, otherwise referred to as arrears.~~

~~All non-IRS collections will be paid to the family first.~~ IRS collections will be retained by the state to satisfy ~~unreimbursed grant~~ assigned arrears, if any. However, IRS collections that are filed as joint returns and that have arrearages owed to the family will have a six month disbursement hold placed on any disbursements to allow the noncustodial parent's spouse to file an "Amended Spouse Return Form" so as to receive his/her part of the joint tax return. Collections in excess of the unreimbursed grant will be paid to the custodial parent if arrears are owed to the family.

~~OCSE must send collections owed to the family or the IV-E foster care agency within two business days of the date support was initially received by any state agency or clerk of court.~~ Any amount that is collected ~~in a month for a child receiving IV-E foster care, which represents that is a payment on the required support obligation for that the current month, shall will~~ be retained by the State to reimburse ~~itself for foster care maintenance payments. Of that amount retained by the State,~~ OCSE ~~shall will~~ determine the amount of, and the Federal government's share so that the State may reimburse the federal government to the extent of its participation in financing its share of the cost of foster care maintenance.

If the amount collected is in excess of the monthly amount of the foster care maintenance payment, but not more than the monthly support obligation, ~~the State must~~ OCSE will pay the excess to the State agency responsible for supervising the child's placement and care. ~~The State agency must use the money in the manner it determines will serve the best interests of the child.~~

In TEA and title IV-E foster care cases in which conversion to a monthly amount is necessary because support is ordered to be paid other than monthly, OCSE may round off the converted amount to whole dollar amounts for the purpose of distribution.

The date of collection is the date the payment was received at the Clearinghouse, for distribution purposes, for payments on all IV-D cases made through wage or other income withholding and received by OCSE on or after January 1, 1989, must be the date the wages or other income are withheld to meet the support obligation. If the employer fails to report the date of withholding, OCSE must reconstruct that date by contacting the employer or comparing actual amounts collected with the pay schedule specified in the court or administrative order.
(45 C.F.R. § 302.51(a)(1)(2))

Separation Of Cash Handling And Accounting Functions

Federal regulations require that individuals who have the responsibility of handling and issuing receipts may not participate in accounting or record keeping functions. Therefore, the person who accepts payments and makes receipts must not be the same person who transmits and deposits monies.

(45 C.F.R. § 302.20)

Office Security

It is OCSE's policy to handle all payments received, including checks to be disbursed, in a secure environment. Procedures and internal controls are in place for handling payments and checks. When payments and checks are not being processed for distribution, they are locked in a secure file cabinet.

(45 C.F.R. § 302.19)

OCSE will ensure that every person who has access to or control over funds collected under the Child Support Enforcement Program is covered by a bond against loss resulting from employee dishonesty.

Payments Received from Noncustodial Parents

Money orders or checks made payable to Department of Finance and Administration ~~or, if appropriate, the Court Clerk shall be~~ are acceptable forms of payments ~~received from NCP.~~ Cash payments are discouraged ~~whenever possible.~~ When possible, money ~~shall be~~ is deposited in the bank the same day it is received. If the bank returns a personal check unpaid because of insufficient funds, OCSE will ~~comply with the Arkansas Hot Check Law~~ pursue payment in the manner required by law.

Payments collected on behalf of a TEA recipient ~~shall~~ must be paid to ~~the IV-D agency~~ OCSE, and ~~shall may~~ not be paid directly to the family. If a TEA ~~eustodian~~ recipient receives money, whether cash or check, directly from a NCP noncustodial parent, the custodian must forward the money to the Arkansas Child Support Clearinghouse. ~~If the NCP pays with a check, the eustodian must endorse the check to OCSE. Failure to do so could result in a loss of TEA benefits.~~ OCSE must ~~inform~~ notify the IV-A agency of the amount of the collection, which

represents payments on the required support obligation for the month, within ten working days of the end of the month in which the support is received.

If a ~~non-TEA custodian parent who received~~ receives OCSE services to collect child support payments receives ~~money~~ payment directly from a ~~NCP noncustodial parent~~, the money must be forwarded to the Arkansas Child Support Clearinghouse to insure that credit for the payment is properly given.

Payments received through the mail or transferred from a court clerk and made payable to the ~~CP custodial parent~~, Medicaid, or non-TEA custodian ~~must be~~ are endorsed as follows: "Credited to the Account of the within named payee - Endorsement Guaranteed-Department of Finance and Administration Office of Child Support Enforcement, Account # (Local Bank)." ~~If a payment is paid directly to a Court Clerk, the date received by that office is the date of collection.~~

Federal/State Tax Intercept

OCSE will certify NCP's noncustodial parents who have child support arrears for Federal and State Tax Offset, according to the regulations found in Federal and ~~State~~ OCSE policy, Chapter 5. Amounts collected through Federal ~~and State~~ income tax refund offset must be ~~distributed as paid to~~ arrears. State Tax intercepts are distributed to current support, arrears, and fees. ~~Collections~~ IRS offsets received by OCSE may be distributed to reflect payment on the case(s) but the actual payment may be held for up to six months if ~~intercepted from a~~ the refund is based on a joint tax return.

(45 C.F.R. § 303.72)

In non-TEA cases, if the case is certified and the custodial parent notifies OCSE in writing subsequent to the certification that the case is to be closed, OCSE will delete the certification and return any funds that may be intercepted after the effective date of the closure to the ~~NCP~~ noncustodial parent. If TEA arrears are owed to the State, the amount certified will be reduced to that amount.

NOTE: If the noncustodial parent files bankruptcy after certification, the OCSE attorney must file an amended a proof of claim or amended proof of claim, as necessary, to reflect the updated child support arrears. The money collected through tax intercept will then be distributed in accordance with federal regulations.

~~Employment Security Division Offset~~

~~NCP's Employment Security Department Benefits can also be intercepted for current obligations and past due support.~~

~~DISTRIBUTION OF MULTIPLE FATHER CASES~~

~~TEA cases involving multiple NCP's are treated the same as one (1) NCP case. The total amount of collections from the NCP is compared with the grant amount to determine potential ineligibility. Collections are distributed as in any other case.~~

DISBURSEMENT

State and federal law requires OCSE to make payment directly to the custodial parent, physical custodian or the caregiver. There are three exceptions: 1) the family receives Transitional Employment Assistance (TEA), 2) child support is paid to Department of Human Services (DHS) if the children are in foster care, and 3) the case originated in another state and OCSE is sending child support payments to that state for the family. (45 C.F.R. § 302.38)

CUSTOMER SERVICE

Stop Payments

~~Whenever~~ If check reissuance is requested due to lost or stolen warrants, a “stop payment” order will be placed on the original warrant, if it is still outstanding. The “stop payment” status protects the agency against duplicate payment to the payee, but does not protect the agency from being liable to a third party who cashes the check without notice of any claim or defense surrounding the transaction.

Stale-Dated and Lost/Stolen Checks

~~It is OCSE's policy to require An 18-day waiting period before action can be taken on lost or stolen checks.~~ Before action can be taken on a lost or stolen check, there is a waiting period of 14 calendar days from the date the check was mailed. However, if it is determined that the check was mailed to an incorrect address, the waiting period is only seven days. The intended recipient of the check must complete an affidavit and/or surety bond, if as appropriate. After the waiting period and after the necessary paperwork has been signed, a new check will may be issued, if appropriate. A check is considered stale-dated after 180 calendar days of not being cashed after it was issued. If a payee is in possession of a stale-dated check, the check should be returned to OCSE and a replacement check will be issued.

Hot Checks Non-Sufficient Funds

When a payor bank or financial institution returns a check ~~drawn upon it~~ due to either a lack of funds ~~sufficient~~ to pay the demand or due to the absence of a valid account, that check ~~then becomes~~ may be subject to ~~not only~~ civil collection procedures, ~~but also~~ and referral to the Office of the Prosecuting Attorney for criminal process. An attempt will be made to notify the

maker of the check to allow for redemption. If the maker of the check does not redeem that check in full plus ~~and the \$20.00~~ \$25 administrative fee service charge and any bank charges incurred, a sworn affidavit for an arrest warrant will be completed. All inquiries regarding ~~redemption returned or insufficient checks~~ must be ~~referred made~~ to the Collection Section at Central Office Non-Sufficient Funds Collection Department at the State Disbursement Unit. ~~Amounts paid to custodial parents that are subsequently found to be insufficient will be re-cooped from future child support payments at the rate of 25%.~~ This procedure is also applicable to payments made by electronic funds transfer (EFT).

When a check is found to be insufficient, a notice to the address shown on the check or a known current address will be sent by regular mail and will include an affidavit of mailing. The notice will inform the recipient:

- That the check(s) submitted to OCSE was dishonored.
- The sender of the check has 10 days from receipt of the notice to make payment for the check(s), plus all fees/charges incurred, by money order or cashier's check.
- If payment is not made, the dishonored check(s) will be submitted to the prosecuting attorney for criminal prosecution.
- A list of the check number(s), check amount(s), a \$25 service charge per check, any fees charged by the financial institution, and the total amount due.

If the payor responds to the notice and makes payment and within the 10-day limit, the matter is not referred to the prosecuting attorney.
(Ark. Code Ann. § 5-37-301 to 306)

SPECIAL COLLECTIONS

Payments from the following sources are processed by the Central Office Collections Department: application fees, FIDM, overpayments, Federal and State tax intercepts, ESD checks, and payments to purge contempt of court.

Overpayments

Recovery of Assigned Child Support Payments

~~Arkansas Code provides for an automatic assignment of child support rights when an individual accepts Transitional Employment Assistance (TEA). Under this law, when an individual accepts TEA for or on behalf of a child or children, such individual will be deemed to have assigned to the State any rights to child support from any other person as such individual may have on his own behalf, or on behalf of any other family member for whom he or she is receiving assistance, that has accrued at the time such assistance or any portion thereof is accepted. The effective date of the assignment will be viewed as the date the case is certified for TEA or the date the child(ren) is added to the TEA grant. The duration of the assignment will extend until: (a) the termination of TEA with respect to current support rights; and (b) such time as past TEA has~~

~~been reimbursed to the State with respect to accrued unpaid support rights. When a noncustodial parent is contacted about a child/medical support obligation, the noncustodial parent may state that child/medical support payments have been made directly to the TEA or Medicaid custodian. If the custodian has kept assigned child/medical support payments while the assignment of rights was effective, then an overpayment may exist. 25% of future collections made on behalf of the custodian will be withheld until the debt is recouped.~~
~~(ACA 9-14-211)~~

~~Recovery of Amounts Paid in Error to the Custodial Parent~~

~~OCSE will make every effort to ensure that payments are posted and disbursed correctly. However, in the event of an error, or an adjustment made by the IRS to a collection previously disbursed, or not check after it is disbursed to the custodial parent, OCSE will create an overpayment for the custodial parent and recoup the amounts paid in error at the rate of 25% of future collections until the amount paid in error is fully recovered. This applies to IV-D OCSE and Non-IV-D payment processing collections. OCSE will seek reimbursement for the overpayment.~~

OCSE will attempt to recover overpayments by requesting instruction from its customers regarding how they wish to repay an overpayment. Customers will be given the option to choose to permit the overpayment to be repaid by recoupment or by repaying the overpayment directly. Instruction will be solicited from a custodial parent in writing and those instructions must be given to OCSE in writing.

This policy will apply to any payment of funds to a custodial parent that is found to not belong to that parent and to payments received through income tax refund intercept that must be later returned to the noncustodial parents' spouse. (Payments that are received and later found to have been made by a check returned for insufficient funds or on which a stop payment order was placed will be recovered from the maker of the check through other available processes.)

Refunds to the Noncustodial Parent

Refunds to the noncustodial parent will be made only if OCSE made an error that resulted in the overpayment. The noncustodial parent must initiate the request for a refund. The request must be in writing and indicate that the noncustodial parent understands that refunding money will create an overpayment for the custodial parent.

RESEARCH

Unidentified Checks

Checks that cannot be credited to a case because of insufficient identifying information will be processed and scanned into the OCSE system. Unidentified checks will be sent to a research team within the Clearinghouse. The team will make phone calls, write letters to employers and

noncustodial parents, and use any information on the check to identify to whom the check belongs as soon as possible. Funds that remain unidentified after three business days of research and investigation will be returned to the sender if possible. If the sender is unknown, the Clearinghouse research team will send the payment information to a special research database, and the payment will be recorded as an Unidentified payment. The Collection Department in Central Office will perform further investigation in an attempt to identify or locate the sender or recipient of the check. Viewing of the unidentified payment file is available to child support staff statewide. Designated staff statewide are authorized to remove payments from the unidentified file and post funds to the proper cases.

Checks mailed to OCSE that should have been sent to a different entity, sometimes referred to as misdirected checks, will be returned to the sender. If a misdirected check is deposited into the OCSE account in error, after contact has been made with the sender, a check will be written by the Collections Department and mailed to the party who sent it. OCSE will not forward a check to the intended recipient.

Checks on Hold

Checks are disbursed to custodial parents within two business days from the date on which the payment was received and identified in the State Disbursement Unit. However, there will be times when a child support payment has to be held in the OCSE office. Using manual distribution hold is appropriate when:

- The court has specifically ordered payments held in escrow pending the outcome of a judicial review.
- There is an error that has occurred and the worker is correcting the problem. The worker **must** monitor the case **daily** to ensure that any money that should be disbursed to the custodial parent is released promptly in order to meet the two business day timeframe required by the regulation and then remove the distribution hold as soon as the problem is corrected.

A weekly report is sent out to the appropriate field offices for OCSE cases and to SDU Customer Service for payment processing cases listing all undisbursed payments. Each caseworker is responsible for getting payments to the custodial parent through researching and correcting any problems as soon as possible.

Chapter 9

ADMINISTRATIVE HEARINGS

PURPOSE

The purpose of the Administrative Hearing process is to provide a mechanism by which a party who is the subject of an administrative action taken under the ~~IV-D~~ OCSE program, which they believe to be adverse, may appeal the agency action. For the purpose of an Administrative Hearing, a party is defined as a noncustodial parent; a custodial parent, in the event of a non-cooperation finding; an account holder, in the event of a Financial Institute Data Match (FIDM) seizure, or intercept of an insurance claim payment from a Child Support Lien Network (CSLN) data match. Complaints, which solely assert an objection to federal or State laws or regulations or which dispute the amount of child support arrears as calculated by the OCSE investigator, are not subject to appeal under this procedure.

INITIATING AN ADMINISTRATIVE HEARING

When a party ~~desires~~ wishes to request an Administrative Hearing, he/she may do so by submitting a request in writing to the ~~OCSE~~ Appeals and Hearings Office. The request must be received by the Appeals and Hearings Office ~~no later than 30 days from the date of mailing of notification of the adverse action~~ within the time specified in the notice of the adverse action.

~~In the case of request for an Administrative Hearing on a Lien/Levy against an account in a Financial Institution based on a match with the institution's data, the request must be submitted no later than 10 days from the date of the notice of such action.~~

The notice of appeal ~~request~~ **must** contain sufficient information in order to allow the following items to be identified:

- A statement of the specific action which is being appealed;
- The reason the party believes the action was incorrect; and
- The specific relief requested.

A notice of appeal request form may be obtained from an OCSE local office or the request may be submitted in any written form that meets the minimum information content indicated below. All submissions must be legible, though they need not be type written.

When a request for ~~a formal~~ an Administrative Hearing is received, the Appeals and Hearings Office will request a copy of the appeal file from the ~~responsible program~~ OCSE office

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initiating the adverse action (the initiating office) ~~which that~~ is the subject of the appeal. The Appeals and Hearings Office will furnish ~~the responsible program OCSE~~ that office a copy of the appeal request.

The appeal ~~file will~~ must contain all records ~~which that~~ constitute the documentary evidence to support the action taken, and any ~~relevant~~ correspondence, ~~and any relevant or other~~ information supplied by a party that is relevant to the action under review. The file must also contain a Hearing Statement prepared by the initiating office ~~which that~~ accurately re-states the issue indicated by the appealing party. Additionally, it must summarize the basis for the adverse action and the position of the office. The Hearing Statement, ~~however,~~ is not original evidence; ~~so~~ complete documentation must be in the file to support the Hearing Statement. ~~The Hearing Statement must contain the issue as stated by the appealing party.~~ The Hearing Statement shall also ~~list~~ contain the name of the office representative for the Administrative Hearing. The appeal file must be submitted to the Appeals and Hearings office within seven days of the request.

WITNESSES

The party and/or his/her representative will be ~~advised~~ notified by the Appeals and Hearings Office that ~~he/she has~~ 15 days are allowed from the date of the notice to review the Hearing File ~~at a specified office location and to notify the Appeals and Hearings Office of the identity of any individuals he/she wishes to request to appear for the Administrative Hearing.~~ at the office indicated in the notice. The notice will also advise the party and/or their representative that they may identify OCSE employees who they wish to question during the Administrative Hearing.

The ~~responsible program-initiating~~ office ~~must advise~~ should submit the names of any witnesses the office wishes to testify regarding the adverse action taken to the Appeals and Hearings Office at the time the Hearing File is submitted ~~sent of any witnesses the office wishes to testify regarding the adverse action taken.~~ OCSE and contract employees ~~will be expected~~ are required to attend testify in the Administrative Hearings upon notification by the Appeals and Hearings Office. The initiating office representative will be notified by the Appeals and Hearings Office of any witnesses the party has requested and will have five days from receipt of this notice to identify rebuttal witnesses.

SCHEDULING HEARINGS

After the time frame has expired for requesting witnesses, the hearing officer will schedule the hearing to afford the parties, and their attorneys, if any, notice of the date, place, and time of the hearing. The hearing may be rescheduled at the discretion of the Hearing Officer upon the request of any party and a showing of good cause.

PLACE OF HEARINGS

The hearing will normally be held at the OCSE Central Office, Appeals and Hearings Office in Little Rock, Arkansas. At the request of a party, and/or at the discretion of the Hearing Officer, the hearing may be held at an OCSE Field Office or by telephone conference call.

ABANDONING THE ADMINISTRATIVE APPEAL

If a party or his/her representative fails to appear for the hearing and has not received the consent of the Hearing Officer to a postponement, the administrative appeal will be considered abandoned.

INITIATING OFFICE

It is the responsibility of the initiating office's representative to be familiar with the case and to be able to provide pertinent information relating to the issues of the case. The office representative should be prepared to ~~cross-examine~~ question the party who requested the hearing and any adverse witnesses who are presented.

CONDUCT OF HEARING

The hearing will be conducted by a Hearing Officer ~~or who is an attorney assigned by the OCSE Appeals and Hearings Office within, or assigned by, the General Counsel Section of OCSE~~. No person who ~~had any part of the adverse~~ participated in the decision which that is being appealed may serve as the Hearing Officer. The Administrative Hearing will be electronically recorded by the Appeals and Hearing office Hearing Officer or his/her designee. A party may have a designated representative. The party who requested the Administrative Hearing may have a designated representative present at the hearing.

~~The hearing will be conducted in an informal but orderly manner. Each witness will be administered an oath/affirmation by the Hearing Officer. The party initiating the appeal has the burden of proving facts necessary to sustain its position by a preponderance of the evidence. The Hearing Officer will explain the hearing procedure to the parties. The hearing statement will be read by the initiating office representative. An opening statement may also be presented by the appealing party or his/her representative. The initiating office will present~~

~~its case first, which includes presenting evidence and questioning of witnesses. The party appealing the proposed action will then be allowed to present his/her case and question the office representative and other witnesses. Questioning of parties and witnesses will be confined to the issue(s) involved. All relevant evidence may be presented as permitted by the Hearing Officer. The Hearing Officer may question any party or witness.~~

The Administrative Hearing will follow this general procedure:

- The hearing will be conducted in an informal but orderly manner;
- The Hearing Officer will explain the hearing procedure to the parties;
- Each witness will be administered an oath/affirmation by the Hearing Officer;
- The hearing statement will be read by the initiation office representative;
- The parties or their representatives may make an opening statement;
- The initiating office will present its case first and specifically describe the reasons for the adverse action taken in the case. The initiating office will introduce documentary evidence pertaining to the adverse action, present oral testimony, and question any witnesses called by the initiating office;
- After the initiating office has presented its case, the party against whom the adverse action was taken may proceed;
- The party may present documentary evidence, oral testimony, cross-examine the initiating office representative or witnesses, or present statement from their representative;
- The Hearing Officer will ensure that the hearing proceeds accordingly, and will limit the questions to the issues relating to the adverse action which is being appealed;
- The Hearing Officer shall determine what evidence is relevant and can be presented at the Administrative Hearing;
- The Hearing Officer may question the initiating office representative, witnesses, and the adverse party;
- The party initiating the appeal has the burden of proving facts necessary to sustain its position (either through testimony or documents) by a preponderance of the evidence;
- The Hearing Officer may request closing statements.

HEARING DECISION

~~The Hearing Officer will prepare and sign a Final Order based on a comprehensive report of the proceedings testimony of the parties, documents presented, and statements of party representatives. The format will consist of an Introduction, Findings of Fact, Conclusions of Law and a Decision. Final administrative action should be completed within 90 days from the receipt of the appeal. The Final Order will be completed within 15 days after conclusion of the Administrative Hearing. This time frame may be altered by the Hearing Officer when appropriate. The Appeals and Hearings Office shall furnish each party A copy of the Final Order will be mailed to the party appealing the adverse action with proof of delivery to the~~

appealing party, (i.e., certified or registered mail, or other signed acknowledgment of receipt restricted delivery, return receipt requested). A copy will also be provided to the representative of the initiating office.

Judicial Appeals to the Circuit Court

Should the party against whom the adverse action was taken disagree with the Final Order, they have 30 calendar days after receipt of the order to commence their appeal with the appropriate Circuit Court, as provided by the Arkansas Administrative Procedures Act.

INSTRUCTIONS FOR ADMINISTRATIVE HEARINGS

Federal Tax Offset Administrative Hearing

If the request for an Administrative Hearing is in an intrastate case where both the noncustodial parent and the custodian are in Arkansas, the hearing will be conducted pursuant to the procedures outlined below.

In interstate cases, if requested by the noncustodial parent, the review and/or hearing will be conducted by the state that issued the child support order. When an Administrative Review is conducted by the issuing state, the decision made by that state is binding on OCSE.

Federal Tax Offset Hearing Referral

When the local office receives an administrative hearing request, the request must be researched. An attempt must first be made to resolve the tax offset issue by the local OCSE office. Each request should be researched and a written response sent to the noncustodial parent addressing the issues raised in their request. If the local OCSE office is able to resolve the issues, the withdrawal of the noncustodial parent's request for further action should be verified. If the local OCSE office is unable to resolve the issues addressed through the Administrative Review, then an Administrative Hearing will be conducted.

The Appeals and Hearings Section will conduct an administrative hearing if the complaint involves an issue that can be resolved by an agency decision. Complaints regarding denied visitation, paternity determinations, or amount of court ordered child support must be addressed by the court and the noncustodial parent should be informed of that limitation. Complaints that concern the validity of the arrearage amount should be referred for an Administrative Hearing.

The hearing scheduling notice shall recite that the obligor's failure to appear for the scheduled hearing will be considered a waiver of the administrative hearing process.

Referral packets for an Administrative Hearing must contain the following:

- Completed Hearing Statement.
- Copy of Federal Tax Pre-Offset Notice that was mailed to the noncustodial parent.
- Copy of all Child Support Order currently in effect.
- Breakdown of arrearage calculation showing arrears and accumulated child support judgments, and affidavit of child support arrears.
- All correspondence relating to the offset and the issues raised by the noncustodial parent.

Referral packets for Administrative Hearings will be reviewed by the local OCSE office supervisor to determine if all the necessary information is attached before being sent to the Appeals and Hearings Section.

The Appeals and Hearings Section may request supplemental or additional information from the local OCSE office. The Appeals and Hearings Section will notify the noncustodial parent, and the caseworker, of the time, date, and place of the administrative hearing.

Judicial Review

Should the noncustodial parent disagree with the decision of the Appeals and Hearing Section, in either a state or federal tax offset hearing, he or she has the right to judicial review under the Administrative Procedure Act, Ark. Code Ann. § 25-15-201 *et seq.* Proceedings for judicial review shall be instituted by filing a petition within 30 days after service upon petitioner of the agency's final decision with:

- The circuit court of any county in which the petitioner resides or does business; or
- The Circuit Court of Pulaski County.

State Tax Offset Administrative Hearing

The noncustodial parent has 30 calendar days from the mailing date of the pre-offset notice to file a written request for an administrative hearing. An attempt must be made to resolve the complaint by the local OCSE office as the first step of the administrative hearing process. Each complaint should be researched and a written response sent to the noncustodial parent. If the local OCSE office is able to resolve the issues, the withdrawal of the noncustodial parent's request for further action should be verified. Should the local OCSE office be unable to resolve the complaint, then the matter should be referred to the Appeals and Hearings Section.

The Appeals and Hearings Section will only conduct an administrative hearing if the complaint involves an issue that an agency decision can resolve, e.g., validity of arrears. The noncustodial parent should be informed to seek legal advice regarding other avenues of resolution for disputes not involving the validity of the arrears.

The hearing scheduling notice shall recite that the obligor's failure to appear for the scheduled hearing will be considered a waiver of the administrative hearing process.

State Tax Offset Hearing Referral

Referral packets for an Administrative Hearing must contain the following:

- Completed Hearing Statement.
- Copy of State Tax Pre-Offset Notice that was mailed to the noncustodial parent.
- Copy of Child Support Order currently in effect.
- Breakdown of arrearage calculation showing arrears and accumulated child support judgments, and affidavit of child support arrears.
- All correspondence relating to the offset or the issues raised by the noncustodial parent.

Referral packets for Administrative Hearings will be reviewed by the local OCSE office supervisor to determine if all the necessary information is attached before being sent to the Appeals and Hearings Section.

The Appeals and Hearings Section may request supplemental or additional information from the local OCSE office. The Appeals and Hearings Section will notify the noncustodial parent, and the caseworker, of the time, date, and place of the administrative hearing.

Judicial Review

Should the noncustodial parent disagree with the decision of the Appeals and Hearing Section, in either a state or federal tax offset hearing, he or she has the right to judicial review under the Administrative Procedure Act, Ark. Code Ann. § 25-15-201 *et seq.* Proceedings for judicial review shall be instituted by filing a petition within 30 days after service upon petitioner of the agency's final decision with:

- The circuit court of any county in which the petitioner resides or does business; or
- The Circuit Court of Pulaski County.

Financial Institution Data Match (FIDM) Hearing

Should a noncustodial parent or account holder request an Administrative Hearing on a Lien/Levy against an account in a Financial Institution based on a match with the institution's data, the request must be submitted no later than 10 days from the date of the notice of such action.

The hearing scheduling notice shall recite that the obligor's failure to appear for the scheduled hearing will be considered a waiver of the administrative hearing process.

In the case of request for an Administrative Hearing on a Lien/Levy against an insurance settlement or account based on a match with the insurance company's data, the request must be submitted no later than 15 days from the date of the notice of such action.

FIDM Hearing Referral

Referral packets for Administrative Hearings must contain the following:

- Completed Hearing Statement.
- Copy of Notice of Levy, Financial Institution Copy, which includes the "Amount of Levy," "Account Number," "Amount of money frozen in the account," and "Date the account was frozen."
- Copy of Notice of Levy and Right to Request an Administrative Hearing for each account owner.
- Breakdown of arrearage calculation showing arrears and accumulated child support judgments, and affidavit of child support arrears.
- All correspondence relating to the Levy or insurance proceeds seizure, or the issues raised by the noncustodial parent, or joint account owner.
- Copy of Child Support Order currently in effect

Referral packets for Administrative Hearings will be reviewed by the local OCSE office supervisor to determine if all the necessary information is attached before being sent to the Appeals and Hearings Section.

The Appeals and Hearings Section may request supplemental or additional information from the local OCSE office. The Appeals and Hearings Section will notify the noncustodial parent, and the caseworker, of the time, date, and place of the administrative hearing.

Judicial Review

Should the noncustodial parent disagree with the decision of the Appeals and Hearing Section, in a FIDM hearing, he or she has the right to judicial review under the Administrative Procedure Act, ACA § 25-15-201 *et seq.* Proceedings for judicial review shall be instituted by filing a petition within 30 days after service upon petitioner of the agency's final decision with:

- The circuit court of any county in which the petitioner resides or does business; or
- The Circuit Court of Pulaski County.

SUSPENSION OF DRIVER'S AND PROFESSIONAL LICENSE

Legal Issues

An Administrative Hearing cannot clear an outstanding Failure to Appear, Body Attachment, or Bench Warrant. These issues may only be address by the court issuing the order. The noncustodial parent should be informed that legal action is required for a determination on any of these issues. The existence of an outstanding Failure to Appear, Body Attachment, or Bench Warrant does not stay the license suspension process.

In an interstate case, the foreign order **must** be registered for enforcement or modification before the administrative process to suspend a license can begin. There will be no exceptions to this requirement.

The hearing scheduling notice shall recite that the obligor's failure to appear for the scheduled hearing will be considered a waiver of the administrative hearing process.

Licensing Suspension Hearing Notice and Packet

Referral packets for administrative hearings must contain copies of the following:

- Notice of Intent to Suspend License(s)
- Obligor's request for an administrative hearing.
- Hearing Statement completed by local OCSE office.
- Copy of all child support order in effect at the time the Notice of Intend to Suspend License was mailed.
- Breakdown of arrearage calculation showing arrears and accumulated child support judgments, and affidavit of child support arrears.
- Copies of any correspondence between the obligor (or representative) and the Office of Child Support Enforcement.

Referral packets for Administrative Hearings will be reviewed by the local OCSE office supervisor to determine if all the necessary information is attached before being sent to the Appeals and Hearings Section.

The Appeals and Hearings Section may request supplemental or additional information from the local OCSE office. The Appeals and Hearings Section will notify the noncustodial parent, and the caseworker, of the time, date, and place of the administrative hearing.

The packet should be routed to the Central Office, Attention: Appeals and Hearings. The Appeals and Hearings Section will notify the initiating local OCSE office that the hearing

packet has been received and advise whether any additional information or documents are needed.

The Appeals and Hearings Section will notify the noncustodial parent and the caseworker of the date, time and location of the administrative hearing. The hearing scheduling notice shall recite that the obligor's failure to appear for the scheduled hearing will be considered a waiver of the administrative hearing process.

License Suspension Hearing

Administrative hearings on license suspension will be conducted according to OCSE Policy Manual Chapter 9, Rules of Order for Administrative Hearings, with the exception that 30 calendar days are allowed to request an administrative hearing following receipt of the Notice of Intent to Suspend.

Administrative hearings on license suspension are limited to a determination whether either of the two Conditions are present, and whether any of the five Exceptions are satisfied.

- **Condition #1:** The obligor is delinquent on a court-ordered child support payment in an amount equal to three months obligation or more, or the obligor is delinquent on payments toward an adjudicated arrearage in an amount equal to three months obligation or more; or
- **Condition #2:** The obligor is the subject of an outstanding failure to appear, body attachment, or bench warrant related to a child support proceeding.
- **Exception #1:** If the obligor was assessed retroactive support, the obligor is not "delinquent" in his child support payments for those retroactive support payments. For example, if the obligor is the putative father and the court finds him to be the legal father and invokes the law authorizing the setting of support retroactively, then the obligor is not delinquent because there was never an obligation to pay before the court date. "Instant debt" will not be considered an "adjudicated arrearage" for the purpose of this policy. The obligor must fail to pay a retroactive support order in an amount equal to at least three months obligation before being subject to license suspension. (Ark. Code Ann. § 9-14-239)
- **Exception #2:** The obligor pays the delinquency below an amount equal to three months obligation.
- **Exception #3:** Obligors who are currently in compliance with a written agreement with OCSE requiring periodic installment payments for liquidation of a child support delinquency or adjudicated arrearage, obligors currently in compliance with their most recent court order reducing a child support arrearage to proper judgment and requiring

periodic payments for liquidation of the judgment, or obligors who are currently making regular and periodic payments on a child support delinquency or adjudicated arrearage through income withholding.

- **Exception #4:** The obligor enters an Agreed Order or written installment agreement with OCSE with instructions to pay current support plus an additional specified amount to be applied to the arrearage/delinquency. The Agreed Order or written installment agreement should contain a provision that stipulates that if the obligor becomes 30 days delinquent on the Agreed Order or written agreement, the license(s) affected will be suspended immediately, and the obligor specifically waives all rights to an administrative hearing or further notice prior to the suspension(s).
- **Exception #5:** Obligor who are periodically making regular payments voluntarily, in an amount equal to current support, plus at least 10% toward liquidation of the arrearage/delinquency, or are paying to the extent permitted under Consumer Credit Protection Act guidelines.

License Suspension Right of Appeal to Circuit Court

Judicial Review

Should the noncustodial parent disagree with the decision of the Appeals and Hearing Section, in a License Suspension hearing, he or she has the right to judicial review under the Administrative Procedure Act, Ark. Code Ann. § 25-15-201 *et seq.* Proceedings for judicial review shall be instituted by filing a petition within 30 days after service upon petitioner of the agency's final decision with:

1. The circuit court of any county in which the petitioner resides or does business; or
2. The Circuit Court of Pulaski County.

CUSTODIAL PARENT NONCOOPERATION WITH OCSE

If a custodial parent makes a timely request for an Administrative Hearing based on a notice of noncooperation that they have received, the investigator shall follow the criteria set out in Chapter 3. Should this matter not be resolved, and the request for an Administrative Hearing withdrawn, the matter should be referred to the Appeals and Hearings section.

The Appeals and Hearings section will conduct an administrative hearing if the request involves an issue that can be resolved by an agency decision. Hearing requests that contest the validity of the noncooperation notice should be referred to the Appeals and Hearings section.

Noncooperation Referral

Referral packets for administrative hearings must contain copies of the following:

- Copy of Noncooperation Notice sent to the custodial parent;
- The custodial parent's request for an administrative hearing;
- Hearing Statement completed by local OCSE office that sets out completely and accurately the custodial parent's noncooperation;
- Copy of any child support orders in effect at the time the noncooperation notice was mailed;
- Copies of any correspondence between the custodial parent (or representative) and the Office of Child Support Enforcement concerning the noncooperation issue.

Referrals for Administrative Hearings will be reviewed by the local OCSE office supervisor to determine if all the necessary information is attached before being sent to the Appeals and Hearings Section.

The Appeals and Hearings Section will review all referrals for accuracy and information, and may request supplemental or additional information from the local OCSE office. The Appeals and Hearings Section will notify the custodial parent, and the caseworker, of the time, date, and place of the administrative hearing.

Administrative Review of Agency Decision

Should the custodial parent in a TEA or Medicaid case be dissatisfied with the final agency order, they have the right to appeal the decision to the Arkansas Department of Human Services. The TEA or Medicaid customer must contact their ADHS caseworker to start the administrative appeal process. The ADHS will conduct a review and make a determination whether or not good cause exists for the custodial parent's noncooperation. The ADHS determination is final and binding on OCSE.

The Administrative Hearing conducted by OCSE is final and binding on non-TEA or non-Medicaid customers. The hearing scheduling notice shall recite that the obligor's failure to appear for the scheduled hearing will be considered a waiver of the administrative hearing process.

GLOSSARY

ADMISSION

A voluntary or implied acknowledgment, confession, or concession of the existence of a fact, or of the truth of an allegation made by a party to the case.

ADJUDICATION

The entry of a judgment or decree by a Judge after all claims of the parties have been heard and a verdict returned.

ADMINISTRATIVE OFFSET

Part of the Federal Offset Program in which the recurring or nonrecurring payments to an individual from the federal government are intercepted and sent to the certifying state for payment of child support arrears.

AFFIDAVIT

A written statement of facts confirmed or sworn to by the party making this statement, taken before an officer having legal authority to administer an oath, such as a notary public.

ALIMONY

Spousal support paid to a divorced spouse.

ALLEGED FATHER

A person who has been named as the father of a child born out of wedlock, but for whom paternity has not been legally established. Also referred to as putative father.

ALLOTMENT

A portion of a serviceman's pay deducted for Child or Spousal Support.

ANSWER

A pleading by the defendant in a civil case that contests or admits the plaintiff's allegations of facts set forth in the complaint.

APPEAL

The request of a party to a higher authority to review the rulings made by a lower authority for possible errors that would justify overruling the lower authority's judgment.

APPLICATION

The act of requesting child support services.

ARCSIS

Arkansas Child Support Information System

ARREARAGE

The amount of past due support.

BENCH WARRANT

An order of ~~the~~ a court which authorizes an arrest.

BIOLOGICAL MOTHER

Birth mother.

BOND

A sum of money paid by ~~a defendant~~ an individual or on his/her behalf to ensure his/her appearance in court or compliance with the court order.

BURDEN OF PROOF

The necessity or duty of affirmatively proving a fact in dispute on an issue raised between the parties.

CARETAKER RELATIVE

The relative who lives in the home with and cares for the minor child.

CASE CLOSING CRITERIA

Conditions that must be met to close a child support case.

CENTRAL OFFICE

The State Headquarters of the Office of Child Support Enforcement.

CENTRAL REGISTRY

A single unit within the state IV-D agency which receives, disseminates, and has oversight responsibility for incoming interstate ~~IV-D~~ OCSE cases, including URESA/UIFSA petitions and requests for wage withholding.

CHILD SUPPORT ORDER

A judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing state, or of the parent with whom the child is living, which provides for monetary support, health care, arrearages or reimbursement, and which may include related costs and fees, interest and penalties, income withholding, attorney's fees, and other relief.

CITATION

~~(1) — An order of summons by which a Defendant is notified of judicial proceedings against him or her, and which directs the defendant to appear before a magistrate or judge at a specific time.~~ (1) A court-issued writ that commands a person to appear at a certain time and place to do something demanded in the court, or to show cause for not doing something.

(2) A reference to a statute, ordinance, or judicial opinion.

CLEARINGHOUSE

See State Disbursement Unit

CODE OF FEDERAL REGULATIONS (CFR)

Publication of federal rules, standards and regulations published by the National Archives of the United States.

COLLECTION

Money obtained by a child support enforcement agency from an obligor.

COLLECTION DATE

The day a payment is received at the Clearinghouse.

COMPLAINT

A written document filed in court ~~in which the person initiating the~~ initiates an action ~~names the defendants, allegations, and for relief sought.~~

CONFIDENTIALITY

The keeping and safeguarding of information obtained while performing official duties from unauthorized disclosure.

CONSENT DECREE

A voluntary agreement to establish paternity support, or payment on arrearage, which upon approval by a judge, becomes a court order.

CONTEMPT

Willful disobedience of the authority of a court of law.

COOPERATION

Assistance provided by the custodian(**For IV-D OCSE Purposes**) to the investigator in establishing paternity by identifying the noncustodial parent, helping in location efforts, appearing at the office to provide written or verbal information, appearing in court if required and turning in any direct child support payments made after the assignment of support rights became effective.

COST RECOVERY

Amounts which are recovered from the noncustodial parent or deducted from collections paid to the customer to reimburse the cost of providing child support services. Costs which are recovered are deducted from amounts submitted for federal reimbursement.

CRIMINAL NONSUPPORT

~~A misdemeanor punishable by up to three years in prison, a charge of which is a method of enforcing a support obligation.~~

Nonsupport is the failure to support a person that one is legally obligated to provide for.

Nonsupport is considered a crime when it meets the criteria set forth in the Arkansas Criminal Code.

CUSTODIAL PARENT (CP)

The natural or adoptive parent who resides with his or her dependent child.

~~CLIENT~~ CUSTOMER

~~Custodial~~ A parent, payee or caretaker relative who is the applicant/recipient of Transitional Employment Assistance (TEA), or the non-TEA applicant of OCSE services.

DECREE

“Judgement” and “Decree” are often used synonymously. Relief granted upon an original complaint.

DEFENDANT

The person defending or denying; the party against whom relief or recovery is sought in an action or suit.

DEMAND DEPOSIT ACCOUNT

Checking account, certified, cashier’s/teller’s/officer’s checks, traveler’s checks money orders checks or drafts drawn by or on behalf of, letters of credit, withheld taxes, withheld insurance and other withheld funds, time deposits that have matured or time deposits which the notice period has expired and which have not been renewed.

DEPENDENT MINOR CHILD

Unless the support order states otherwise, a child under the age of eighteen years to whom an obligation of support is owed.

DEPOSITION

The testimony of a witness taken before trial, reduced to writing and duly authenticated, and intended to be used at the trial.

DHS

Department of Human Services

DIRECT PAYMENT

An assigned support payment from an ~~NCP~~ noncustodial parent which is received directly by a TEA, ~~or Medicaid,~~ or non-TEA recipient.

DISMISSED WITH PREJUDICE

A ruling that a case be discharged and barred from future action.

DISMISSED WITHOUT PREJUDICE

A ruling that a case can be discharged, however, it is not barred from future action.

DOCKET

- (1) Court Calendar
- (2) A brief record of court proceedings.

DOR

Division of Revenue

DUE PROCESS

The conduct of legal proceedings according to those rules and principles which have been established in our system of law for the enforcement and protection of private rights. Its most essential elements are a court with proper jurisdiction over the subject matter and the defendant, notice to each party, the opportunity for each party to present evidence and challenge the opposing party's evidence, orderly procedures, and a neutral and unbiased trier of fact who determined the facts and decides the issues only on the basis of the persuasiveness of relevant evidence properly admitted. Due process is a safeguard against unreasonable, arbitrary, and capricious decisions.

EMANCIPATION

A term principally used with reference to the emancipation of a minor child by its parents, which involves an entire surrender of the right of care, custody, and earnings of the child as well as a renunciation of parental duties.

ENFORCEMENT

An action taken to compel payment of child support.

ESTABLISHMENT

The act of securing a court order determining paternity and/or a support obligation.

EXECUTION

A group of remedies that put final civil judgments into effect by the court, thereby commanding a sheriff to take certain actions such as seizing money from a defendant's bank account to pay a judgment won by the plaintiff in a trial.

EXPERT WITNESS

A person who has special knowledge and skills in a certain field that would enable him or her to testify in court.

FAMILY SUPPORT CHART

A set of principles approved by the Arkansas Supreme Court by which a recommended child support order amount may be determined.

FEDERAL PARENT LOCATE SERVICE (FPLS)

The parent locator service is operated by the Office of Child Support Enforcement. FPLS has access to records of the IRS, Social Security Administration, Dept. of Defense, Dept. of Transportation and National Personnel Registry.

FINANCIAL INSTITUTION DATA MATCH

A proactive match of child support case members to the account information of financial institutions for the purpose of identifying assets of delinquent obligors.

FIPS CODE

Federal Information Processing Standards code, a code scheme identifying each county in each state and territory of the United States.

FOREIGN ORDER

Another state's order.

FRAUD

The act of deceiving or misrepresenting for the purpose of wrongfully receiving ~~TEA or Medicaid~~ benefits, services, or a favorable court ruling as it pertains to OCSE.

GARNISHEE

Person, such as an employer, upon whom a garnishment is served to institute garnishment proceedings against an obligor.

GARNISHMENT

A legal proceeding whereby an obligor's property, money, or credit in the possession of or under control of a third party, such as an employer, (garnishee) is withheld from the obligor and applied to the payment of his or her debt to the obligee.

GOOD CAUSE

Justification of a TEA or Medicaid recipient's refusal to cooperate in child support enforcement activities.

GRANT AMOUNT

The monthly amount of Transitional Employment Assistance (TEA) paid to a specific family.

INCENTIVE

Money which is credited to a local QCSE unit or the state for their assistance in processing a case. Incentive is paid at a variable percentage rate set by Congress for collection on a TEA or Non-TEA case.

INCOME

Any periodic form of payment due to an individual, regardless of source including wage, salaries, commissions, bonuses, workers compensation, disability payments pursuant to a pension or retirement program, and interest. The definition of income may be expanded by the Arkansas Supreme Court from time to time in the guidelines for child support awards.

INITIATING STATE

The state in which interstate support activities are commenced and where the obligee is located.

INTERCEPT

~~ESD—The Arkansas Employment Security Department is authorized by the court to deduct twenty-five percent (25%) of any Unemployment Insurance to which the Defendant may be entitled and to pay said amount to the CSEU to offset any support which accrues under the support order.~~

Tax - Federal – Internal Revenue Code Authorize the collection of delinquent child support through the interception of federal income tax refunds.

Revenue - Act 372 of 1983 and Act 987 of 1985 authorizes and establishes procedures for the collection of past due child support through the interception of state income tax refunds.

INTERFACE

The place at which independent systems meet and communicate with each other, e.g., IV-A/~~IV-D~~-OCSE interface.

INTERROGATORIES

A legal means of discovering information needed in a trial by which questions are submitted to the opposing party that must be answered under oath.

INTERSTATE CASE

Any support case in which one of the parties resides outside Arkansas and avails themselves of the protection and rights of the Uniform Interstate Family Support Act.

~~IRS FULL COLLECTION SERVICES~~

~~Method by which the IRS collects child support arrears in the same manner as it collects tax obligations in arrears.~~

IV-A

Title IV-A of the Social Security Act is that portion of the Federal law covering the Temporary Assistance for Needy Families (TANF) program. Each state develops its program. In Arkansas the Program is Transitional Employment Assistance (TEA).

IV-D

~~Title IV-D of the Social Security Act is that portion of the Federal law covering the child support enforcement program. See Title IV-D.~~

IV-E

Title IV-E of the Social Security Act is that portion of the Federal law covering the foster care program.

JUDGEMENT

~~The formal entry of a court's decision.~~ A court's final determination of the rights and obligations of the parties in a case.

JURISDICTION

Legal authority which a court has over particular persons or types of cases, or a defined geographical area.

LEGAL FATHER

A man who is recognized by law as the male parent of another person.

LEVY

To confiscate property.

LIEN

~~A charge against an interest in property to secure payment of a debt or performance of an obligation.~~ A legal right or interest that a creditor has on another's property until a debt or duty that it secures has been satisfied.

LOCATION

The act of obtaining the whereabouts of a ~~NCP~~ noncustodial parent and verifying that the address is correct.

LONG ARM STATUTE

~~A law which permits one state to claim jurisdiction over someone who lives in another state.~~ A law providing for jurisdiction over a defendant who lives in another state who has had contacts with the state where the law is in effect.

MEDICAID

Medical assistance provided under a State plan approved under Title XIX of the Social Security Act.

MEDICAL SUPPORT

Federal Regulations require OCSE to petition the court for provisions that the noncustodial parent acquire and maintain medical insurance for his or her dependent children when coverage is available.

MODIFICATION

The act of changing a court order.

MONEY-MARKET MUTUAL FUND ACCOUNT

Treasury bills, commercial paper and negotiable certificates of deposit. They are also funds that

are managed by investment companies registered with the Securities and Exchange Commission.

MONITORING

A system for identifying cases in which there is a failure to meet the support obligation and following enforcement guidelines.

MOTION

A request to a Judge for an order or ruling.

NON-TEA ~~IV-D~~ OCSE CASE

An ~~IV-D~~ OCSE case in which the children who are entitled to support are not receiving TEA.

NONCOOPERATION

~~As a condition of eligibility, each IV-A applicant or recipient is required to cooperate with Child Support Enforcement. Failure to cooperate could result in closure or grant reduction, with regard to the TEA case, or closure of the non-TEA IV-D OCSE case.~~

The failure of the customer to meet the requirement of the contract and/or assignment.

NONCUSTODIAL PARENT (NCP)

The natural or adoptive parent who is absent from the home but has a duty to support dependent children. Also known as obligor, payor.

NOTARIZE

The administration of an oath to a person by a public officer who then attests and certifies, by his or her signature and official seal on the document, that the person who signed the document was, in fact, the person whose name appeared thereon.

OBLIGATED AMOUNT

The amount of support established by court order. The total amount of support due for ~~any given month~~ a designated period of time.

OCSE CASE

Those cases that are enforced by the Office of Child Support.

OFFICE OF CHILD SUPPORT ENFORCEMENT (OCSE, Federal)

A part of the U.S. Department Of Health and Human Services which oversees the state child support programs through regional representation.

OFFICE OF CHILD SUPPORT ENFORCEMENT (OCSE, State)

A part of Dept. of Finance and Administration, Revenue. OCSE administers ~~IV-D~~ OCSE child support enforcement services in Arkansas.

OBLIGEE

Someone to whom a duty of support is owed; as used in the Manual, the term includes obligees who have assigned their right to support to the State.

OBLIGOR

Someone who owes a duty of support.

ORDER

~~Direction of a Judge, held after a Decree or Judgment has been granted.~~
A written directional command delivered by a court or judge.

ORDER TO SHOW CAUSE

An order served on an obligor in a contempt action requiring an ~~explanation of~~ appearance in court to explain his/her failure to pay ordered support.

OVERDUE SUPPORT

~~Means a~~ A delinquency pursuant to an obligation determined under a court order, or an order of an administrative process established under State law, for support and maintenance of a minor child, which is owed to or on behalf of the child, or for the noncustodial parent's spouse (or former spouse) with whom the child is living, but only if a support obligation, established with respect to the child, is being enforced under the State's ~~IV-D~~ OCSE plan.

PAST-DUE SUPPORT

The amount of support determined under a court order or an order of an administrative process established under State law for support and maintenance of a child, or of a child and the parent with whom the child is living, that has not been paid. This term is used to refer most commonly to a judgment obtained when the child support obligation is initially set.

PATERNITY SUIT

An action to determine the parentage of a child born out of wedlock.

PAYEE

The parent/caretaker relative who receives the child support payment or the case head on a ~~public assistance~~ TEA/Medicaid case.

PAYMENT

Money paid by an obligor for child support.

PAYMENT PROCESSING CASE

A case that is not enforced by OCSE but the child support payment is receipted and disbursed by the Arkansas Child Support Clearinghouse pursuant to Ark. Code Ann. § 9-14-805.

PAYOR/OBLIGOR

An employer, person, general contractor, independent contractor, subcontractor, or legal entity which has or may have in the future in its possession moneys, income, or periodic earnings due the noncustodial parent. Payor shall include all agencies, boards, commissions institutions and other instrumentalities, and school districts.

PETITION

A formal written request submitted to the court asking that a certain thing be done. It states facts and circumstances relied upon as a cause for judicial action and contains a formal request (prayer) for relief.

PLEADING

Written allegation filed with the court of what is affirmed on one side and denied on the other, disclosing to the court or jury the issue between the parties.

PLAINTIFF

One who initiates a personal action or lawsuit to obtain a remedy for an injury to his right; the complaining person in a litigation.

POTENTIAL INCOME

Income not actually received but attributed to a parent based on his or her employment potential.

PROBATION

Allowing a person convicted of an offense to go free, under a suspension of sentence and supervision.

PROSECUTOR

The Attorney responsible for prosecuting child support matters; includes States Attorneys, assistant State's Attorneys' and contract Attorneys.

PROTECTIVE PAYEE

Persons who receive TEA on behalf of children when the caretaker is ineligible to receive TEA due to non-cooperation or incapacitation.

PUBLIC ASSISTANCE

Programs which provide financial, medical, or other assistance to ~~needy~~ qualified persons.

PUTATIVE FATHER

The alleged father of a child who was born out of wedlock.

RECEIPT DATE

The date in which a payment was received at the ~~SDU~~ Clearinghouse.

RECIPIENT

A person who receives public assistance.

RECOVERY CASE

A case where there is an unrecovered, support amount due to Arkansas, another state, or the non-TEA custodian.

REGULATION

A rule or order promulgated by a governmental administrative agency having the effect of law.

REMITTANCE PROCESSING

The processing of a payment, from receiving payment in SDU to disbursement.

RESPONDING STATE

A state receiving and acting on an interstate child support case.

RESTITUTION

Court ordered reimbursement for expenses which are determined to be the obligor's responsibility.

RFP

Request for Proposal

SERVICE OF PROCESS

The act of delivering a copy of a legal paper to a person when that person must be notified of a court action, and the court must know that the person has received it.

SOCIAL SECURITY ACT

An act of congress originally enacted in 1936 which provides for retirement and survivor's benefits, disability insurance, unemployment insurance, and certain other welfare programs.

SPOUSAL SUPPORT

A legally enforceable obligation for the support of a spouse or former spouse who is living with the children.

STATE DISBURSEMENT UNIT (SDU)

The branch of the Office of Child Support that processes all child support payments for the State of Arkansas. Also known as the Clearinghouse.

STATE PLAN

A comprehensive statement submitted by the ~~IV-D~~ OCSE agency describing the nature and scope of its program, and giving assurance that it will be administered in conformity with the specific requirements stipulated in title IV-D and other applicable issuances. The State Plan must be submitted to the Governor for his review and comments.

STATE PARENT LOCATOR SERVICES (SPLS)

The service established by the state ~~IV-D~~ OCSE agency to locate noncustodial parents. Sources checked include Employment Security Department, Food Stamp records, Credit Bureau Services and Driver Control.

SSA

U.S. Social Security Administration.

SSI

Supplemental Security Income.

SSN

Social Security Number

STATUTE OF LIMITATIONS

A legislative enactment that prescribes the period of time within which a civil suit must be brought upon a certain claim.

STATUTE

A law enacted by a legislature.

STAY

An order by a magistrate or judge stopping court proceedings or the implementation of a court order.

STIPULATION

An agreement between the parties covering business before the court.

SUBPOENA

A writ requiring appearance in court to give testimony.

SUMMONS

~~A warning or citation to appear in court at a time specified to answer to the plaintiff.~~
The official notification of the filing of a lawsuit notifying a defendant of his/her responsibility to act within specified time frames in order to preserve his/her defenses to the suit filed.

SUPPORT ORDER

See definition of CHILD SUPPORT ORDER.

SURETY

A person who incurs an obligation to pay money on behalf of another person in the event of the occurrence of a specified contingency.

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)

A state program to provide assistance to needy families with children so they can be cared for in their own home, and to reduce dependency by promoting job preparation, work and marriage. States may also use funds on efforts to prevent out-of-wedlock pregnancies and encourage the formation and maintenance of two-parent families. TANF is a federal term. In Arkansas, TANF is known as Temporary Employment Assistance (TEA).

TIME DEPOSIT ACCOUNT

The depositor does not have a right and is not permitted to make withdrawals for a certain period unless it is subject to early withdrawal penalty, club accounts, share certificates and certificates of indebtedness, certifiable accounts and notice accounts, savings accounts.

TITLE IV-D

Title IV-D of the Social Security Act is that portion of the Federal law covering the child support enforcement program.

TPL

Third Party Liability

UNEMPLOYMENT INSURANCE (UI)

Unemployment Insurance, a fund from which eligible unemployment persons are paid benefits.

UNIFORM INTERSTATE FAMILY SUPPORT ACT (UIFSA)

The statutory authority for courts to establish and enforce an obligation for child support arising in another state. Referred to in some states as Uniform Reciprocal Enforcement of Support Act (URESAs).

VERIFICATION

The process of confirming that information is true.

WAGE WITHHOLDING – INITIATED

Ark. Code Ann. § 9-14-218 (a) (1) became effective August 1, 1985, and provides for payment of child support obligations by mandatory initiated income withholding. If not court ordered, initiated income withholding must take effect when the amount of the delinquency is equal to the total court ordered support payable for 30 days. The provision will also apply when partial payments have been made but total arrears are equal to one month's obligation.

WAGE WITHHOLDING – IMMEDIATE

Orders, judgments, and decrees entered in ~~IV-D~~ OCSE cases after October 1, 1989, should contain a provision for immediate income withholding, unless the court finds there is good cause not to implement withholding, or the parties enter into an alternative agreement regarding withholding. If there is no order, wage withholding can only be implemented upon proper notice to the noncustodial parent after he has accumulated an arrearage equal to 30 days support.

WAGE WITHHOLDING – MEDICAL

Orders effective after March 6, 1991, must contain a provision allowing for income withholding for medical support. Orders for health insurance effective after March 6, 1991, that do not contain a provision allowing income withholding for medical support are not subject to withholding. The next step for these cases would be referral to legal for contempt.

WARRANT

A writ issued by a judicial officer commanding a law enforcement officer to perform and arrest or search.

WAIVER

The intentional and voluntary relinquishment of a known legal right.

WRIT

An order issued from a court which requires the performance of a specified act.

WRIT OF ATTACHMENT

A court order instructing the sheriff to seize a person or property.